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**UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEW JERSEY**

DARRYL GAINES,

Plaintiff,

v.

WAYFAIR, LLC and JOHN DOES 1-5  
AND  
6-10,

Defendant.

Civil Action No. 1:21-cv-15843-KMW-EAP

**DECLARATION OF  
RACHEL SIMONE FREY, ESQ. IN  
SUPPORT OF DEFENDANT'S MOTION  
FOR SUMMARY JUDGMENT**

*Via ECF*

**RACHEL SIMONE FREY, ESQ.** declares as follows:

1. I am an attorney-at-law of the State of New Jersey with the law firm of Littler Mendelson, P.C., attorneys for Defendant Wayfair LLC (improperly pled as "Wayfair, LLC") ("Defendant") in the above-captioned action. I make this Declaration in support of Defendant's Motion for Summary Judgment dismissing the entire Complaint of Plaintiff Darryl Gaines ("Plaintiff") with prejudice. This Declaration is based upon my personal knowledge.

2. Collectively attached as **Exhibit A** are true and accurate copies of the relevant pages from the transcript of Plaintiff's deposition, conducted on January 5, 2023. Plaintiff's deposition transcript is cited as "Gaines Dep." in Defendant's Brief in Support of Its Motion for Summary Judgement.

3. Attached as **Exhibit B** is a true and accurate copy of a personnel document reflecting the date Plaintiff signed Wayfair's Employee Guide and Harassment Policy acknowledgement, produced in discovery and authenticated by Plaintiff at his deposition as P-4. (Gaines Dep., 32:24-34:3).

4. Attached as **Exhibit C** is a true and accurate copy of Wayfair's "Symptoms Awareness and Symptomatic Policy" poster, produced in discovery and authenticated by Plaintiff at his deposition as P-11. (Gaines Dep., 46:2-15).

5. Attached as **Exhibit D** is a true and accurate copy of Wayfair's "Keep Well This Winter" poster, produced in discovery and authenticated by Plaintiff at his deposition as P-7. (Gaines Dep., 38:20-39:15).

6. Attached as **Exhibit E** is a true and accurate copy of another version of Wayfair's "Keep Well This Winter" poster, produced in discovery and authenticated by Plaintiff at his deposition as P-8. (Gaines Dep., 40:1-14).

7. Attached as **Exhibit F** is a true and accurate copy of Wayfair's "Stop!" poster, produced in discovery and authenticated by Plaintiff at his deposition as P-9. (Gaines Dep., 40:15-41:9).

8. Attached as **Exhibit G** is a true and accurate copy of an email dated April 2, 2021, from Plaintiff to Talent Management and Nick Segura, produced in discovery and authenticated by Plaintiff at his deposition as P-21. (Gaines Dep., 88:19-89:1).

9. Attached as **Exhibit H** is a true and accurate copy of the Termination Report for Gaines, dated April 7, 2021, produced in discovery and authenticated by Plaintiff at his deposition as P-24. (Gaines Dep., 94:25-95:11).

10. Attached as **Exhibit I** is a true and accurate copy of the warehouse associate job description, produced in discovery and authenticated by Plaintiff at his deposition as P-3. (Gaines Dep., 29:16-14).

11. Attached as **Exhibit J** is a true and accurate copy of Plaintiff's positive COVID-19 test result, produced in discovery and authenticated by Plaintiff at his deposition as P-18. (Gaines Dep., 85:6-22).

In accordance with 28 U.S.C. § 1746, I declare under penalty of perjury under the laws of the United States of America that the above is true and correct.

Dated: March 8, 2024

/s/Rachel Simone Frey  
Rachel Simone Frey, Esq.

# EXHIBIT A

1 Page 1

2  
3  
4 UNITED STATES DISTRICT COURT  
5 FOR THE DISTRICT OF NEW JERSEY

6 DARRYL GAINES,

7 Plaintiff, Civil Action No.  
8 1:21-cv-15843 NLH-AMD

9 -v-

10 WAYFAIR, LLC, and JOHN DOES  
11 1-5 and 6-10,

12 VIDEOCONFERENCE  
13 DEPOSITION UPON  
14 ORAL EXAMINATION  
15 OF

16 Defendants. DARRYL GAINES

17 T R A N S C R I P T of testimony taken  
18 remotely stenographically by and before MARGARET  
19 VOLLMUTH-CORSON, a Certified Court Reporter of the  
20 State of New Jersey, via VERITEXT VIRTUAL  
21 VIDEOCONFERENCE, witness appearing from Mount Holly,  
22 New Jersey, on Thursday, January 5, 2023, commencing  
23 at approximately 10:03 a.m.

24  
25 Job No. NJ5642774

<p style="text-align: right;">Page 26</p> <p>1 A. Oh, man. I applied approximately 2 September/October, around those months. Like almost 3 immediately.</p> <p>4 Q. Do you know what year that was?</p> <p>5 A. 2020.</p> <p>6 Q. 2020. Okay. And how long after you 7 applied did you hear back?</p> <p>8 A. I heard back a day later.</p> <p>9 Q. Okay. And what was that process like?</p> <p>10 Did you have to interview?</p> <p>11 A. Yeah, I had a small cell phone 12 interview, just talking about work experiences, and 13 then I got an email like the follow -- within the 14 week.</p> <p>15 Q. Okay.</p> <p>16 A. And that was really it.</p> <p>17 Q. Do you remember who interviewed you?</p> <p>18 A. No, I do not.</p> <p>19 Q. Was it an in-person interview or 20 remote?</p> <p>21 A. It was remote.</p> <p>22 Q. Remote? Okay.</p> <p>23 All right. I'm going to show you what 24 is going to be marked as P-2.</p> <p>25 (Exhibit P-2, November 6, 2020,</p>	<p style="text-align: right;">Page 28</p> <p>1 position though?</p> <p>2 A. It started as, yes. So yes, --</p> <p>3 Q. Okay.</p> <p>4 A. -- it started off as that, then it 5 transitioned.</p> <p>6 Q. Okay. And what were your job duties 7 when you first started?</p> <p>8 A. Quality control.</p> <p>9 Q. And what does that entail?</p> <p>10 A. All right. Well, quality control you 11 would get a random product, and then you inspect 12 that product to make sure that there's no obvious 13 damages, cracks, deformities, you know, just damage. 14 You know, looking at the product before you, you 15 know, give it to a customer. You're basically 16 checking to see if, you know, it's broken or not.</p> <p>17 Q. Okay. And what did your -- what was 18 your shift?</p> <p>19 A. It depends on the week. So a short 20 week was from Sunday through Tuesday, and then a 21 long week was Sunday through Wednesday.</p> <p>22 Q. Okay. And when did the shift start, 23 and when did it end?</p> <p>24 A. In the morning it started, if I 25 recall, 6 a.m. in the morning to about 4, 4:30 p.m.</p>
<p style="text-align: right;">Page 27</p> <p>1 Wayfair letter to Darryl Gaines Bates stamped 2 D-000029 to 31, is marked for identification.)</p> <p>3 Q. Can you take a minute to read this?</p> <p>4 And let me know when you want me to scroll.</p> <p>5 A. You can scroll. You can continue.</p> <p>6 Okay. Okay. Okay. Okay. Okay.</p> <p>7 Q. Do you recognize this?</p> <p>8 A. I believe this was like our -- our 9 opening welcome packet.</p> <p>10 Q. Okay. So like your offer letter?</p> <p>11 A. Yes.</p> <p>12 Q. Okay. And is that accurate that you 13 received it on November 6, 2020?</p> <p>14 A. Yes. Yes, it is.</p> <p>15 Q. Okay.</p> <p>16 A. That was around that time.</p> <p>17 Q. Okay. And did you start employment on 18 November 9, 2020?</p> <p>19 A. I believe I had, yes.</p> <p>20 Q. And I'm going to stop sharing this.</p> <p>21 Did you start as a temp?</p> <p>22 A. No. I started full-time, which was, 23 you know, the 80 hours.</p> <p>24 Q. Okay. I mean, were you -- so was it a 25 seasonal position, like a temporary seasonal</p>	<p style="text-align: right;">Page 29</p> <p>1 Q. Okay. And who was your supervisor?</p> <p>2 A. His name was Nick.</p> <p>3 Q. Do you know his last name?</p> <p>4 A. I do not recall.</p> <p>5 Q. All right. I'm going to share what's 6 going to be marked as P-3.</p> <p>7 MS. MATCHETT: And Rachel, just for 8 the record, I have the first exhibit was Bates 9 stamped D125 to 126, and the offer letter for P-2 is 10 D29 to 31. I just like to put that on the record 11 because it's helpful when we --</p> <p>12 MS. FREY: Sure. Yeah. So the first 13 exhibit was D125 to 126, the second exhibit was D29 14 to D31, and this exhibit, P-3, is D168, which I will 15 share now.</p> <p>16 (Exhibit P-3, Job description for 17 Warehouse Associate Bates stamped D-000168, is 18 marked for identification.)</p> <p>19 Q. Okay. Can you take a minute to read 20 this?</p> <p>21 A. Yes. Okay. Okay. Okay.</p> <p>22 Q. All right. And this is a job 23 description for warehouse associate position. Did 24 you do any of these things that are listed on this 25 job description?</p>

<p>1 A. Can you scroll a little bit down, 2 please?</p> <p>3 Q. Yes.</p> <p>4 A. Thank you.</p> <p>5 I did use scan technology to document 6 the pertinent carton level information, including 7 condition and quantity is kind of what I've done.</p> <p>8 Q. Okay.</p> <p>9 A. And I think that fits with QC, which 10 is quality control.</p> <p>11 Q. Okay. So for quality control you did 12 some of them, but not necessarily everything 13 listed --</p> <p>14 A. Right.</p> <p>15 Q. -- in the warehouse position?</p> <p>16 Okay. How many people were on the 17 quality -- with you on quality control?</p> <p>18 A. Honestly, about five people, give or 19 take.</p> <p>20 Q. Was that all on your -- the same shift, 21 or did they have different shift schedules?</p> <p>22 A. They do have different shift 23 schedules, but on that same shift there's about five 24 that I know of.</p> <p>25 Q. Okay. So there's five on your shift,</p>	<p style="text-align: center;">Page 30</p> <p>1 A. No.</p> <p>2 Q. No? Okay. Why not?</p> <p>3 A. Because the game of choice wasn't a 4 game that I play normally, so after a while I just 5 deleted the game.</p> <p>6 Q. Got it. All right. Did you ever have 7 any interactions with anyone from HR at Wayfair?</p> <p>8 A. No, other than the email. That's it.</p> <p>9 Q. Okay. Do you know/did you know someone 10 called Madison Irons in HR?</p> <p>11 A. Yes. Yes.</p> <p>12 Q. And did you -- other than email and 13 maybe phone calls, did you ever have any in-person 14 interactions with her?</p> <p>15 A. No. I mean, not me, no, besides a 16 regular "Hi," "Good morning."</p> <p>17 Q. Okay. And when you first came to 18 Wayfair do you recall having to sign any employee 19 handbook or any policies?</p> <p>20 A. Not specifically. I know that I had 21 to sign a paper, but...</p> <p>22 Q. Okay.</p> <p>23 A. Yeah.</p> <p>24 Q. All right. I'm going to show you what 25 I'm going to mark as P-4, and the Bates label is</p>
<p style="text-align: center;">Page 31</p> <p>1 but there might have been more that weren't on your 2 shift that you didn't know about?</p> <p>3 A. Yes. Yes.</p> <p>4 Q. Okay. And was Nick Segura their 5 supervisor as well?</p> <p>6 A. Yes.</p> <p>7 Q. Okay. Do you know who Nick's 8 supervisor was?</p> <p>9 A. No.</p> <p>10 Q. Okay. And what was your relationship 11 like with Nick Segura?</p> <p>12 A. Honestly, he was cool. He was cool 13 peoples. I know after a while, you know, we 14 exchanged gamer information so we could play video 15 games together after work. He was a cool person, 16 you know, and then -- yeah, that's really it. He 17 was a real -- a cool guy.</p> <p>18 Q. Okay. Did you ever talk about work 19 when you were playing video games?</p> <p>20 A. No.</p> <p>21 Q. Okay. And did you actually play video 22 games with him after work?</p> <p>23 A. Yes. Yes.</p> <p>24 Q. Did you play video games with him after 25 work after you were terminated?</p>	<p style="text-align: center;">Page 33</p> <p>1 D20.</p> <p>2 (Exhibit P-4, Table titled "Standard 3 Documents" Bates stamped D-000020, is marked for 4 identification.)</p> <p>5 Q. Okay. Can you take a look at that and 6 let me know when to scroll?</p> <p>7 A. Okay. Okay.</p> <p>8 Q. All right. So this says -- in the 9 third line down it says Wayfair Employee Guide Link, 10 and then it says that you acknowledged it. So do 11 you recall acknowledging that employee guide?</p> <p>12 A. I do not, no.</p> <p>13 Q. Okay. And a little ways down it says 14 Wayfair Harassment Policy, and it says that you 15 acknowledged that as well. Do you recall 16 acknowledging that?</p> <p>17 A. No.</p> <p>18 Q. Okay. And could it have been the kind 19 of thing where you just don't remember, but you did 20 read it?</p> <p>21 A. All --</p> <p>22 MS. MATCHETT: Objection. You can --</p> <p>23 A. -- I can say, honestly --</p> <p>24 MS. MATCHETT: -- answer.</p> <p>25 You can answer.</p>

<p style="text-align: right;">Page 34</p> <p>1 A. Okay. With these document, like I 2 don't know when or where I was at. All I know is 3 that I just signed a bunch of paperwork.</p> <p>4 Q. Okay. All right. I'm going to show 5 you what I'm going to mark P-5. The Bates labels 6 are D443 to D508.</p> <p>7 (Exhibit P-5, Wayfair Employee Guide, 8 Version date: January 2021 Bates stamped D-000443 9 through 508, is marked for identification.)</p> <p>10 Q. All right. Hold on. I think it will 11 be easier if I make it smaller. Okay. And I'm just 12 going to scroll through this quickly and then go to 13 the places that I want you to take a look at.</p> <p>14 So looking at the title page, does the 15 -- do you recognize the Wayfair Employee Guide?</p> <p>16 A. Yes.</p> <p>17 Q. Yes. Okay. All right. So I'm going 18 to go to page 8.</p> <p>19 So on page 8 where it says "Equal 20 Employment Opportunity," do you recall ever reading 21 this policy?</p> <p>22 A. No.</p> <p>23 Q. Okay. Is that -- did you just not read 24 the handbook?</p> <p>25 A. Honestly, I must have skimmed it just</p>	<p>1 Q. Okay. So if you were subject to 2 discrimination or harassment what did you understand 3 that you were supposed to do, if anything?</p> <p>4 A. Contact HR.</p> <p>5 Q. Okay.</p> <p>6 A. Or advise your supervisor and contact 7 HR.</p> <p>8 Q. All right. I'm going to show you what 9 I'm going to mark as P-6, and it's D642 to D654.</p> <p>10 (Exhibit P-6, Wayfair Employee Guide: 11 Fulfillment and HDO Addendum, Version date: March 12 2021 Bates stamped D000642 through 654, is marked 13 for identification.)</p> <p>14 Q. Can you take a look at that?</p> <p>15 From the title page do you recognize 16 this document?</p> <p>17 A. No, I do not.</p> <p>18 Q. All right. So I'm going to scroll 19 down, and before I start asking, did you know that 20 Wayfair had an attendance policy?</p> <p>21 A. Yes.</p> <p>22 Q. Okay. Did you ever look at the -- 23 where the attendance policy was written?</p> <p>24 A. I'm sorry. Repeat that?</p> <p>25 Q. Did you ever like read the attendance</p>
<p style="text-align: right;">Page 35</p> <p>1 to sign at the bottom.</p> <p>2 Q. All right. What about Policy Against 3 Sexual Harassment and Other Workplace Harassment; 4 did you ever read that part?</p> <p>5 A. No.</p> <p>6 Q. Okay. And then how about Wayfair's 7 reporting procedures for harassment and 8 discrimination, the page Bates labeled D458; did you 9 ever read that part?</p> <p>10 A. No, but all I can say, honestly, at 11 one point we had like, I guess, a course or a class 12 about the -- the guidelines sexual harassment and 13 the discrimination.</p> <p>14 Q. Okay. And when did you have that 15 course or class?</p> <p>16 A. I do not recall the date, but it was 17 within that year.</p> <p>18 Q. Okay. And based on that class did you 19 understand that Wayfair had a policy prohibiting 20 discrimination and harassment?</p> <p>21 A. Yes.</p> <p>22 Q. And did you understand there was a 23 reporting process if you felt you were discriminated 24 or harassed?</p> <p>25 A. Not that I recall.</p>	<p style="text-align: right;">Page 37</p> <p>1 policy, or was it something that was told to you?</p> <p>2 A. It was told.</p> <p>3 Q. Okay. Do you know if you had access to 4 this?</p> <p>5 A. To the point system?</p> <p>6 Q. Well, to this, the Wayfair Employee 7 Guide.</p> <p>8 A. I believe that we did have access to 9 it. Everything was, honestly, verbal.</p> <p>10 Q. Okay. And who was it that told you 11 verbally?</p> <p>12 A. Nick, our supervisor.</p> <p>13 Q. Okay. And when did he tell you that?</p> <p>14 A. In morning standup, I think the first 15 day of work.</p> <p>16 Q. Okay. And what was the attendance 17 policy?</p> <p>18 A. Well, I believe it was called the 19 point system. If you -- say you missed a day of 20 work, that's one point. If you get six points, 21 you're terminated. If you show up to work and have 22 to leave for whatever reason, that's a half a point. 23 But if it's COVID related, there's no points 24 involved, and you will be paid for that day.</p> <p>25 Q. Okay. And what about if it's another</p>

<p style="text-align: right;">Page 38</p> <p>1 type of sickness, not COVID; do you know if that --    2 if you get points for that or not?    3 A. You'll still get a half a point.    4 Q. Okay. And were you aware of whether    5 Wayfair had any COVID related policies?    6 A. No. All I know is that -- what my    7 supervisor told me; that if you do feel that you    8 have COVID or been exposed to it, you're allowed to    9 leave work and get tested.    10 Q. Okay. And that supervisor was Nick?    11 A. Yes.    12 Q. When did he tell you that?    13 A. Around the same time, in the standup    14 meeting on the first --    15 Q. Okay. Did --    16 A. -- day I was working.    17 Q. Were there ever any posters put up    18 around the warehouse about COVID?    19 A. Yes.    20 Q. Okay. I'm going to show you what I'm    21 marking as P-7. It's Bates labeled D516.    22 (Exhibit P-7, Copy of a "Keep Well    23 This Winter" poster Bates stamped D000516, is marked    24 for identification.)    25 Q. Can you just take a look at this?</p>	<p style="text-align: right;">Page 40</p> <p>1 (Exhibit P-8, copy of a "Keep Well    2 This Winter" poster Bates stamped D-000517, is    3 marked for identification.)    4 Q. Okay. Can you take a minute to read    5 this too?    6 A. Yes. Okay. Okay.    7 Q. Okay. And is this also one of the    8 posters that was around the warehouse?    9 A. Yes.    10 Q. And is this one that you had seen?    11 A. Yes.    12 Q. Okay. Is it the same thing that it was    13 a different color, or was it this color?    14 A. It was a different color.    15 Q. Okay. I'm going to show you what I'm    16 going to mark as P-9. That's Bates labeled D525.    17 (Exhibit P-9, Copy of a "Stop!" poster    18 Bates stamped D-000525, is marked for    19 identification.)    20 Q. Okay. Can you take a look at this and    21 read it? Tell me when to scroll.    22 A. Okay. Okay. Okay.    23 Q. And do you recognize this?    24 A. Yes, I do.    25 Q. Where do you recognize it from?</p>
<p style="text-align: right;">Page 39</p> <p>1 A. Um-hum. Okay.    2 Q. Do you recognize this?    3 A. Yes. Yes, I do.    4 Q. Okay. And what is it?    5 A. It was the, I guess, COVID policy    6 poster.    7 Q. Okay. So was this one of those posters    8 that were around the warehouse?    9 A. Yes, but it did not look like that.    10 Q. Okay. What was the difference?    11 A. A different color, honestly, or -- it    12 was roughly the same.    13 Q. Okay. So the same information, just    14 different color?    15 A. Yeah.    16 Q. Okay. And do you see at the bottom    17 where it says, "Do not come to work if you are    18 sick"?"    19 A. Correct.    20 Q. Okay. And did you ever read this    21 poster while you were at work?    22 A. Yes.    23 Q. Okay. I'm going to show you what's    24 marked as P -- I'm going to mark as P-8, and it's    25 Bates labeled D517.</p>	<p style="text-align: right;">Page 41</p> <p>1 A. That was posted on the inside of the    2 door of the exit doors.    3 Q. Okay. And did you ever read it while    4 you were at Wayfair?    5 A. Yes.    6 Q. Okay. And from it did you understand    7 that if you were feeling sick you were not supposed    8 to enter the building?    9 A. Yes.    10 MS. MATCHETT: Objection. You could    11 answer.    12 Q. Okay. And what did you understand you    13 were supposed to do if you were feeling sick?    14 A. You're --    15 MS. MATCHETT: Objection. You can    16 answer.    17 A. -- supposed to --    18 MS. MATCHETT: You could answer.    19 A. Okay. You're supposed to inform your    20 supervisor.    21 Q. Okay. And what after that?    22 A. And after that go home, get tested if    23 -- you know, if you feel like you have COVID, and    24 then inform -- excuse me -- inform your supervisor    25 and HR the results.</p>

<p>1     Q.    Okay. And when can you come back to 2 work after doing that?</p> <p>3     A.    That varies. It depends on how long 4 you're supposed to stay out and when HR tells you 5 to.</p> <p>6     Q.    Okay. I'm going to show you what I'm 7 going to mark as P-10, and it's Bates labeled D124.</p> <p>8           (Exhibit P-10, Wayfair COVID-19 Policy 9 Bates stamped D-000124, is marked for 10 identification.)</p> <p>11    Q.    Okay. Can you take a minute to read 12 this?</p> <p>13    A.    Yes. Okay. Okay. Okay.</p> <p>14    Q.    Do you recognize this?</p> <p>15    A.    No, I don't. I'm sorry.</p> <p>16    Q.    Okay. In the middle under "Policy" it 17 says, "Common symptoms included, but are not limited 18 to." Did you know that those were -- do you 19 understand that those were common symptoms of COVID?</p> <p>20    A.    Yes and no.</p> <p>21    Q.    Okay. And why do you say no?</p> <p>22    A.    Because a lot of these symptoms are 23 corresponding to any other illness. That's not just 24 to COVID.</p> <p>25    Q.    Okay. And what are those symptoms?</p>	Page 42	<p>1 the news what they were?</p> <p>2     A.    Yes. Definitely the news. It's 3 honestly the same symptoms that's been showed.</p> <p>4     Q.    Okay. And when you say "the same 5 symptoms that's been showed," do you mean what was 6 on that --</p> <p>7     A.    On the screen, yes.</p> <p>8     Q.    Sorry.</p> <p>9           Sorry. I just had a call.</p> <p>10    So what was on the screen in the last 11 -- okay. And was that everything that was on the 12 screen?</p> <p>13    A.    More or less, yes.</p> <p>14           MS. MATCHETT: Objection. You can 15 answer.</p> <p>16    Q.    I can pull up the screen too.</p> <p>17           And when you say "more or less," what 18 do you mean?</p> <p>19    A.    Meaning like half of those symptoms 20 were not there then.</p> <p>21    Q.    And when you say "then," what do you 22 mean?</p> <p>23    A.    Two years ago back in 2020.</p> <p>24    Q.    Okay. Which half of the symptoms 25 weren't there back in 2020?</p>	Page 44
<p>1     A.    Cough, runny nose, and that's really 2 it.</p> <p>3     Q.    So cough and runny nose, but everything 4 else you would consider a COVID symptom?</p> <p>5     A.    Yes. More or less, yes. Especially 6 the -- the loss of taste and smell.</p> <p>7     Q.    Okay. Did you ever see COVID symptoms 8 listed anywhere at Wayfair?</p> <p>9     A.    No.</p> <p>10    Q.    Did you ever make an attempt to look at 11 the policy to try and see like what symptoms they 12 had listed?</p> <p>13    A.    No. All I could remember is that Nick 14 was telling us vaguely, you know, if you have, you 15 know, A to Z, this is what you're supposed to do.</p> <p>16    Q.    Okay. When was that?</p> <p>17    A.    Within, you know, the first week or so 18 of me working there in the morning.</p> <p>19    Q.    Okay. And do you remember what the A 20 to Z that he listed was?</p> <p>21    A.    No. Not specifically, no.</p> <p>22    Q.    Okay. Did you ever try and go online 23 or to look up what COVID symptoms were?</p> <p>24    A.    No.</p> <p>25    Q.    Okay. What about did you ever hear on</p>	Page 43	<p>1     A.    I do not recall.</p> <p>2     Q.    Okay. Do you recall any of them that 3 were there back in 2020?</p> <p>4     A.    Shortness of breath was a -- a tall 5 sign. Also with, again, taste and smell. Once you 6 have those two symptoms, then you most likely do 7 have COVID.</p> <p>8     Q.    Okay. So I guess is it your opinion 9 then if you just have congestion or a runny nose 10 that you don't have COVID?</p> <p>11    A.    I'm sorry. Repeat that?</p> <p>12           MS. MATCHETT: Objection. You can 13 answer.</p> <p>14    Q.    So is it -- I guess is it your opinion 15 then if you just have congestion or a runny nose 16 that you don't have COVID?</p> <p>17           MS. MATCHETT: Objection. You can 18 answer.</p> <p>19    A.    No.</p> <p>20    Q.    No? Okay. So you might have COVID if 21 you just have congestion or runny nose?</p> <p>22    A.    No. It's -- again, everyone is 23 different, so you can have a cough and have COVID, 24 or you can be fatigued and not have COVID, you know, 25 so it's not -- these symptoms doesn't really</p>	Page 45

<p>1 determine if you have it or not.</p> <p>2 Q. All right. And I'm going to show you</p> <p>3 what I'm marking as P-11. It's Bates labeled D121</p> <p>4 to D123.</p> <p>5 (Exhibit P-11, Three COVID-19 policy</p> <p>6 fliers Bates stamped D-000121 through 123, is marked</p> <p>7 for identification.)</p> <p>8 Q. All right. Let me scroll up to the</p> <p>9 top. Can you just take a minute to read this?</p> <p>10 A. Yes. Okay. Okay. Okay.</p> <p>11 Q. Do you recognize that?</p> <p>12 A. Yes.</p> <p>13 Q. And where do you recognize it from?</p> <p>14 A. Again, it's one of those posters that</p> <p>15 was plastered in the warehouse.</p> <p>16 Q. Okay. And do you recall reading it</p> <p>17 while you were at the warehouse?</p> <p>18 A. No.</p> <p>19 Q. Okay. And why didn't you read it?</p> <p>20 A. I'm sorry. Say that again? I did</p> <p>21 not?</p> <p>22 Q. Why didn't you read it; yes.</p> <p>23 A. I do not recall. I know it was there</p> <p>24 for sure. Like I -- I've read, you know, most</p> <p>25 things around the building, and also my supervisor</p>	<p>Page 46</p> <p>1 don't recall discussing?</p> <p>2 MS. MATCHETT: Objection. You could</p> <p>3 answer.</p> <p>4 A. Okay. Other than the point system,</p> <p>5 that's really it. That's all we really talked</p> <p>6 about.</p> <p>7 Q. Okay. You talked about the point</p> <p>8 system?</p> <p>9 A. Yes.</p> <p>10 Q. Did you discuss adhering to Wayfair's</p> <p>11 COVID-19 procedures with Nick?</p> <p>12 A. Other than early in the morning about,</p> <p>13 you know, what to do if you feel like you have</p> <p>14 COVID. That's really it.</p> <p>15 Q. Okay. So you don't recall having a</p> <p>16 specific conversation, though, on November 11, 2020?</p> <p>17 A. No. No.</p> <p>18 Q. Okay. Was there ever a point where</p> <p>19 Nick sat down with you and went over all the</p> <p>20 policies?</p> <p>21 A. On a personal level?</p> <p>22 Q. Yes.</p> <p>23 A. No. Again, standup in the morning he</p> <p>24 goes over, you know, COVID related issues, and then</p> <p>25 we had, you know, a discussion about "you know what</p>
<p>1 just tells me this in the morning.</p> <p>2 Q. Okay. So you knew basically what was</p> <p>3 on it because your supervisor told you?</p> <p>4 A. Right.</p> <p>5 Q. Okay. And that supervisor being Nick?</p> <p>6 A. Yes. Every morning he says the same</p> <p>7 thing before -- during standup.</p> <p>8 Q. Okay. And so I know you said that you</p> <p>9 spoke with your supervisor about the -- about the</p> <p>10 policies and stuff, so I'm going to show you what</p> <p>11 I'm marking as P-12.</p> <p>12 (Exhibit P-12, Gaines, Dj Record of</p> <p>13 Discussion dated 11/10/2020 Bates stamped D-000025</p> <p>14 and 26, is marked for identification.)</p> <p>15 Q. Can you take a look at that and just</p> <p>16 tell me when to scroll?</p> <p>17 A. Okay. Okay. Okay. Okay. Okay.</p> <p>18 Q. Okay. And do you recall having this</p> <p>19 discussion with Nick Segura?</p> <p>20 A. No.</p> <p>21 Q. Okay. Is there anything -- I mean, you</p> <p>22 said you had discussions with him earlier when we</p> <p>23 were first talking.</p> <p>24 A. Correct.</p> <p>25 Q. Is there anything on this that you</p>	<p>Page 47</p> <p>1 to do if you do have it," and that's the only thing</p> <p>2 he told me, --</p> <p>3 Q. Okay.</p> <p>4 A. -- is what to do.</p> <p>5 Q. Okay. And is it possible you just</p> <p>6 don't remember this conversation, or are you saying</p> <p>7 that it didn't happen?</p> <p>8 A. I don't remember the conversation.</p> <p>9 Q. Okay. Got it. All right.</p> <p>10 So going back, briefly, to the previous</p> <p>11 -- to P-11, I know you said that you didn't read it.</p> <p>12 Was there anything stopping you from reading this</p> <p>13 poster?</p> <p>14 A. No, other than it's lunchtime or break</p> <p>15 time.</p> <p>16 Q. Okay. And what do you mean by that?</p> <p>17 A. We didn't have that much time for</p> <p>18 break.</p> <p>19 Q. Okay.</p> <p>20 A. You get from, you know, one side of</p> <p>21 the building to the next side of the building. But</p> <p>22 I acknowledge that it was there, but I did not have</p> <p>23 time to sit down and read it because I didn't have</p> <p>24 time to eat.</p> <p>25 Q. Where was the poster located?</p>

<p style="text-align: right;">Page 62</p> <p>1 A. It wasn't -- it wasn't that bad, no.</p> <p>2 Q. Okay. And so I guess when you say "it</p> <p>3 wasn't that bad," why wasn't it? Like what about it</p> <p>4 wasn't that bad?</p> <p>5 A. It's hard to explain. It's like I</p> <p>6 know when it gets bad, the allergies, like I know</p> <p>7 exactly what it feels like, and I know that</p> <p>8 specifically at that time it wasn't as bad. My eyes</p> <p>9 wasn't -- like I could see, and my eyes was not</p> <p>10 itchy at all. Just, you know, a cough and a</p> <p>11 sniffle. That's all I had, you know, but I know</p> <p>12 exactly when it gets really bad and intense, I know</p> <p>13 the difference between that and then back in 2021.</p> <p>14 Q. And what do you -- how do you know the</p> <p>15 difference between it? Like what do you mean by</p> <p>16 that?</p> <p>17 A. I get allergies all the time since</p> <p>18 growing up, so I know, you know, what to expect. I</p> <p>19 know --</p> <p>20 Q. Okay.</p> <p>21 A. -- if it gets bad, when it gets bad,</p> <p>22 the feeling of it. This is what I get all the time.</p> <p>23 Q. And what was different in -- or I guess</p> <p>24 was something different in 2021?</p> <p>25 A. No.</p>	<p style="text-align: right;">Page 64</p> <p>1 A. Yes, I do.</p> <p>2 Q. Okay.</p> <p>3 A. So is everything else.</p> <p>4 Q. What do you mean, "so is everything</p> <p>5 else"?</p> <p>6 A. Common cold, you know, having a</p> <p>7 headache that's because, you know, you didn't eat as</p> <p>8 much or drink as much. A normal headache could be</p> <p>9 symptom of COVID.</p> <p>10 Q. Okay.</p> <p>11 A. That's what I mean.</p> <p>12 Q. Okay. All right. Let me find...</p> <p>13 Have you ever taken any COVID tests</p> <p>14 before?</p> <p>15 MS. MATCHETT: Objection. I guess for</p> <p>16 clarity do we want to narrow the time frame down?</p> <p>17 Or if that's the question, that's the question.</p> <p>18 I'll just object to it.</p> <p>19 Q. I just want to know any time in your</p> <p>20 life. So before you were employed by Wayfair or</p> <p>21 after have you ever taken any COVID tests?</p> <p>22 A. Not before, no.</p> <p>23 Q. Not before? What about after?</p> <p>24 A. Yes.</p> <p>25 Q. Okay. How many times have you taken</p>
<p style="text-align: right;">Page 63</p> <p>1 MS. MATCHETT: Objection. You could</p> <p>2 answer.</p> <p>3 A. Okay. It was --</p> <p>4 MS. MATCHETT: You could answer.</p> <p>5 A. -- normal.</p> <p>6 Okay. It was normal. It was a normal</p> <p>7 night or morning.</p> <p>8 Q. Okay. And did you tell anyone at</p> <p>9 Wayfair that you had seasonal allergies?</p> <p>10 A. No. It's allergies. I mean, I don't</p> <p>11 see the -- the meaning behind letting somebody know</p> <p>12 that it's allergies. I mean, if they asked me do</p> <p>13 you have allergies, I would, you know, honestly</p> <p>14 answer them, but it's something that I wouldn't tell</p> <p>15 everybody.</p> <p>16 Q. Okay. And so do you understand that --</p> <p>17 so your allergies cause a cough, right?</p> <p>18 A. Yes.</p> <p>19 Q. And I think you said itchy throat and a</p> <p>20 runny nose?</p> <p>21 A. Um-hum.</p> <p>22 Q. Is that right?</p> <p>23 A. Yes.</p> <p>24 Q. And do you understand that those are</p> <p>25 also symptoms of COVID?</p>	<p style="text-align: right;">Page 65</p> <p>1 one after?</p> <p>2 A. Once after.</p> <p>3 Q. When was that?</p> <p>4 A. I do not recall.</p> <p>5 Q. How about like broadly, like do you</p> <p>6 remember the year?</p> <p>7 A. Yes. '22, somewhere around there.</p> <p>8 Q. Okay. And why did you take the COVID</p> <p>9 test?</p> <p>10 A. I took -- I -- I took a test because,</p> <p>11 you know, after everything was, I guess, back to</p> <p>12 normal, when hanging out with friends, when you find</p> <p>13 out one of your friends got sick, and just in case,</p> <p>14 you know, I took the test.</p> <p>15 Q. Okay. So it was you thought you might</p> <p>16 have been exposed to COVID, so you took the test?</p> <p>17 A. Yeah. Yeah. Yes.</p> <p>18 Q. Did you have any COVID symptoms?</p> <p>19 A. No.</p> <p>20 Q. Okay. And what was the result of the</p> <p>21 test?</p> <p>22 A. I was fine.</p> <p>23 Q. Okay.</p> <p>24 A. Or negative.</p> <p>25 Q. Negative. Okay. And is that the only</p>

<p style="text-align: right;">Page 66</p> <p>1 time after you were employed by Wayfair that you 2 took a test?</p> <p>3 A. Yes.</p> <p>4 Q. Okay. What about while you were 5 employed with Wayfair, did you ever take a COVID 6 test?</p> <p>7 A. Yes, I did.</p> <p>8 Q. When was the first time?</p> <p>9 A. The first time was I took a test March 10 30, 2021, I believe, and I got my results back on 11 April 2.</p> <p>12 Q. Do you recall taking a COVID test 13 before that?</p> <p>14 A. Before March?</p> <p>15 Q. Yeah.</p> <p>16 A. No, I do not recall.</p> <p>17 Q. Okay. Let me show you what I'm going 18 to mark P-15.</p> <p>19 (Exhibit P-15, Copy of a cell phone 20 screenshot of a result of a COVID-19 test taken on 21 3/7/2021 Bates stamped D-000037, is marked for 22 identification.)</p> <p>23 Q. Can you take a look at this?</p> <p>24 A. Yes.</p> <p>25 Q. Tell me when to scroll.</p>	<p style="text-align: right;">Page 68</p> <p>1 Q. Okay. Do you recall why you took that 2 COVID test?</p> <p>3 A. If I could remember correctly, I went 4 to the doctor's, I had a stomach issue, and I had to 5 take a COVID test, I believe, so I could even enter 6 the -- the doctor's office. After I took my test I, 7 you know, let Nick and HR know what was going on, 8 and then I --</p> <p>9 Q. Okay.</p> <p>10 A. You know, after that I went back to 11 work.</p> <p>12 Q. Okay. What was the stomach issue?</p> <p>13 A. That's when I found out I had Crohn's 14 disease.</p> <p>15 Q. Okay. So when you took the test did 16 you think that you -- was it because you suspected 17 you had COVID or just because you had to take it to 18 get in, I guess, to the facility?</p> <p>19 A. I had to take it.</p> <p>20 Q. To get into the facility?</p> <p>21 A. Yes. Yes.</p> <p>22 Q. Okay. And so did you think the -- or I 23 guess was it a stomach issue where you had nausea? 24 Like what were your symptoms?</p> <p>25 A. It was cramping pain.</p>
<p style="text-align: right;">Page 67</p> <p>1 A. You can scroll. Continue. Continue.</p> <p>2 Q. That's all.</p> <p>3 MS. FREY: And this is D37, sorry, 4 just for the record.</p> <p>5 Q. So do you recall taking a COVID test on 6 March 7, 2021?</p> <p>7 A. No, I do not.</p> <p>8 Q. Okay. Let me go to -- so I'm going to 9 show you what I'm going to mark as P-16, and it's 10 D38.</p> <p>11 (Exhibit P-16, Two forwarded email 12 messages from Darryl Gaines and Madison Irons dated 13 March 7 and 8, 2021, Bates stamped D-000038, is 14 marked for identification.)</p> <p>15 Q. Just tell me when to scroll.</p> <p>16 A. You could scroll.</p> <p>17 Q. And this is an email from you dated 18 March 7, 2021. Do you recognize this email?</p> <p>19 A. Yes, I do.</p> <p>20 Q. Okay. And do you recall sending this 21 email?</p> <p>22 A. Yes. Now, yes, I do.</p> <p>23 Q. Okay. And so does this refresh your 24 recollection of taking a COVID test around March 7?</p> <p>25 A. Yes. Yes.</p>	<p style="text-align: right;">Page 69</p> <p>1 Q. Okay. And when you went to the doctor 2 what did you think it was?</p> <p>3 A. I had no idea until I found out that I 4 had Crohn's disease.</p> <p>5 Q. Okay. Did you think you might have 6 COVID?</p> <p>7 A. No. Not at all.</p> <p>8 Q. No? Okay. And did you let your 9 supervisor know?</p> <p>10 A. Yes.</p> <p>11 Q. And do you recall what he said?</p> <p>12 A. No, I do not.</p> <p>13 Q. Okay. And do you recall if HR ever 14 responded to you or --</p> <p>15 A. No, I do not.</p> <p>16 Q. Okay. Do you know, did you get any 17 attendance points for this time?</p> <p>18 A. I might have. Either half a point or 19 it probably got dismissed with a doctor's note. I 20 really do not recall.</p> <p>21 Q. Okay. And when were you able to return 22 to work after taking the test, do you remember?</p> <p>23 A. I do not recall. I mean, I guess five 24 days after said date, but again, I do not recall 25 when I had to come back.</p>

<p style="text-align: right;">Page 70</p> <p>1 Q. Okay. And why is it that you told HR 2 that you took the test?</p> <p>3 A. I guess just to cover my own self --</p> <p>4 Q. Okay.</p> <p>5 A. -- being out.</p> <p>6 Q. Sorry. Go ahead. I didn't mean to cut 7 you off.</p> <p>8 A. That's okay. Just to cover my own 9 bases. I know for a fact that with them once you 10 take a test, again, let them know your results 11 either way. You know, since it was negative, I just 12 wanted to know when I come back, you know, what 13 time. You know, that's all I, you know, emailed HR 14 about.</p> <p>15 Q. Okay. And was that -- did you 16 understand that based on the Wayfair's policy?</p> <p>17 A. I knew it based off what Nick told me.</p> <p>18 Q. Okay. And that's -- when you say what 19 Nick told you, you're talking about the like morning 20 discussions?</p> <p>21 A. Yes. Yes.</p> <p>22 Q. Okay. Did Wayfair give you any like 23 specific PTO to use for COVID related absences?</p> <p>24 A. I cannot recall.</p> <p>25 Q. Do you recall whether you got paid for</p>	<p style="text-align: right;">Page 72</p> <p>1 A. A breakfast sandwich.</p> <p>2 Q. Had you ever eaten that kind of 3 breakfast sandwich before?</p> <p>4 A. No.</p> <p>5 Q. Do you remember what kind it was?</p> <p>6 A. I don't know. It's something from 7 7-Eleven.</p> <p>8 Q. Okay.</p> <p>9 A. Something small and quick, you know.</p> <p>10 Q. Okay. And how sick did -- like when 11 you say your stomach felt bad, how sick did you 12 feel?</p> <p>13 A. It was cramping. I had -- I couldn't 14 move. Crippling pain.</p> <p>15 Q. Okay. And do you understand that 16 nausea is a symptom of COVID?</p> <p>17 A. Yes.</p> <p>18 Q. Okay. And so I'm sorry, I might have 19 missed this. Who did you say that you told that you 20 were --</p> <p>21 A. It was --</p> <p>22 Q. -- having stomach pain?</p> <p>23 A. Yes. It was the area supervisor. His 24 name was Mo.</p> <p>25 Q. Okay.</p>
<p style="text-align: right;">Page 71</p> <p>1 the time that you took off to take the test?</p> <p>2 A. Yes. So if you have to leave work for 3 a COVID related issue you will get paid for that day 4 or that week, depending if you worked that scheduled 5 week. That's what I do know or remember.</p> <p>6 Q. Okay. And you said that you took 7 another COVID test, one other COVID test while you 8 were at Wayfair. Do you recall when that was?</p> <p>9 A. Yes. It was March 30 is when I left 10 to take the test.</p> <p>11 Q. Okay. And other than those two tests, 12 did you take any other COVID tests while you were 13 with Wayfair?</p> <p>14 A. No, I don't believe I have.</p> <p>15 Q. Okay. So before you took the test on 16 3/30, so did you -- were you feeling sick at all on 17 3/28/2021?</p> <p>18 A. No.</p> <p>19 Q. Okay.</p> <p>20 A. Well, you said 28? Yes. I had 21 something to eat, did not agree with my stomach. At 22 that time Nick wasn't there, so I contacted another 23 supervisor, informed him what was going on, and he 24 said I could leave, and so I left.</p> <p>25 Q. Okay. And what did you eat?</p>	<p style="text-align: right;">Page 73</p> <p>1 A. I informed him.</p> <p>2 Q. And do you remember what time of day 3 that was?</p> <p>4 A. What time?</p> <p>5 Q. Yeah.</p> <p>6 A. Approximately around 6, 6:30, 7:00.</p> <p>7 Q. And that was in the morning?</p> <p>8 A. Yes. Early in the morning.</p> <p>9 Q. Okay. What did he say?</p> <p>10 A. That I could recall, he said that Nick 11 told him about my Crohn's, and I'm sorry, and he was 12 like, yeah, you can go home.</p> <p>13 Q. Okay. And what did you say to him?</p> <p>14 A. That I -- my stomach hurts really 15 bad, --</p> <p>16 Q. Okay.</p> <p>17 A. -- you know, and --</p> <p>18 Q. Did you -- sorry. Go ahead.</p> <p>19 A. Sorry. Go ahead.</p> <p>20 Q. Did you tell him you thought it was 21 Crohn's?</p> <p>22 A. No. I said that my stomach was 23 hurting, and Mo said, oh, is it, you know, Crohn's? 24 Nick told me that you had Crohn's. And he allowed 25 me to leave.</p>

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<p>1 Q. Okay. And did you, I guess, respond to 2 that in any way?</p> <p>3 A. I said I appreciate it, and I went 4 home.</p> <p>5 Q. Okay. How long -- or actually, was 6 there anyone else present for that conversation?</p> <p>7 A. Not that I recall.</p> <p>8 Q. And do you recall anything else being 9 said?</p> <p>10 A. No.</p> <p>11 Q. How long did your stomach hurt?</p> <p>12 A. When I got there, or...</p> <p>13 Q. Yes. And then how long after that?</p> <p>14 A. It hurt all day. All -- after I left 15 I couldn't get out of bed.</p> <p>16 Q. Okay. And did you think it was 17 Crohn's; because of the Crohn's?</p> <p>18 A. Yes.</p> <p>19 Q. Okay. And when did it get better?</p> <p>20 A. Later that night.</p> <p>21 Q. Okay. At that point were you 22 experiencing allergies? Because this was March.</p> <p>23 A. Yes.</p> <p>24 Q. Okay. What allergies were you 25 experiencing?</p>	<p>1 A. No. I believe -- well, not believe. 2 I know that around that time certain supervisors had 3 to forcefully use their PTO or their time off, so 4 during that week or so Nick was at home working. I 5 forgot what it was called or how it was called, but 6 he wasn't physically there.</p> <p>7 Q. Okay. And so what about on March 30, 8 did you go to work then?</p> <p>9 A. Yes.</p> <p>10 Q. And did you have any -- did you feel 11 sick at all?</p> <p>12 A. No, I did not. Just, you know, a 13 little cough and a sneeze. Other than that, I felt 14 -- I felt fine.</p> <p>15 Q. And hold on one second. Before -- 16 MS. FREY: Can we just take, I guess, 17 a ten-minute break? Would that work for everyone?</p> <p>18 MS. MATCHETT: Yeah, that's fine.</p> <p>19 MS. FREY: Okay.</p> <p>20 MS. MATCHETT: Come back, you want to 21 say, 11:45?</p> <p>22 MS. FREY: Yes.</p> <p>23 (Recess taken from 11:34 to 11:46 24 a.m.)</p> <p>25 BY MS. FREY:</p>
Page 75	Page 77
<p>1 A. Sneezing.</p> <p>2 Q. Did you have a cough?</p> <p>3 A. A little cough, yes.</p> <p>4 Q. Okay. What about a runny nose?</p> <p>5 A. No.</p> <p>6 Q. No? Okay. And do you recall whether 7 you were taking allergy medicine at that time?</p> <p>8 A. I do not recall.</p> <p>9 Q. Okay. And did you come to work on 10 March 29, the day after that?</p> <p>11 A. Yes.</p> <p>12 Q. Okay. Did you feel sick at all then?</p> <p>13 A. Nope. I was -- I was fine. I was 14 healthy.</p> <p>15 Q. Okay. Did you still have any allergy 16 symptoms?</p> <p>17 A. A sneeze here and there, but nothing 18 to where it affected my work.</p> <p>19 Q. Okay. What about a cough; did you 20 still have a little cough?</p> <p>21 A. No.</p> <p>22 Q. And who did -- do you recall who you 23 worked with on the 29th?</p> <p>24 A. Myself.</p> <p>25 Q. Was Nick there, do you remember?</p>	<p>1 Q. All right. So before we went on that 2 break we were talking about March 30, and I had 3 asked you if you felt sick the morning when you went 4 in to work, and you were going through how you felt, 5 so can you tell me what -- how you felt sick on 6 3/30?</p> <p>7 A. Queasy.</p> <p>8 MS. MATCHETT: Objection. You can 9 answer.</p> <p>10 A. Okay. Queasy.</p> <p>11 Q. Did you have a runny nose?</p> <p>12 A. No.</p> <p>13 Q. Okay. And hold on. Let me get the 14 right document here. This is going to mess me up.</p> <p>15 Okay. I'm going to show you what I'm 16 going to mark as P-17.</p> <p>17 (Exhibit P-17, Plaintiff's Answers to 18 Defendant's First Set of Interrogatories, is marked 19 for identification.)</p> <p>20 Q. And this is your interrogatory 21 responses that you produced in this case. Have you 22 ever seen this document before?</p> <p>23 A. Yes.</p> <p>24 Q. Okay. I'm going to scroll to the end 25 here. Is this your signature at the bottom?</p>

<p style="text-align: right;">Page 78</p> <p>1 A. Yes.</p> <p>2 Q. Okay. And do you see where it says, "I 3 hereby certify that the information provided in the 4 foregoing answers to interrogatories is true, to the 5 best of my knowledge, understanding, and belief"?</p> <p>6 A. Yes.</p> <p>7 Q. Okay. And did you sign this 8 electronically? Is that --</p> <p>9 A. Yes, I did.</p> <p>10 Q. Okay. And you recall signing it 11 electronically?</p> <p>12 A. Yes.</p> <p>13 Q. Okay. I just want you to read starting 14 at "On March 30, 2021."</p> <p>15 A. Okay.</p> <p>16 Q. Can you just read that?</p> <p>17 A. Yes.</p> <p>18 Q. And you can just read that paragraph 19 and tell me when you're done reading that paragraph.</p> <p>20 A. Okay. "On or about March 30" --</p> <p>21 Q. Sorry. You don't have to read it out 22 loud.</p> <p>23 A. Oh. Sorry.</p> <p>24 Q. I'm sorry.</p> <p>25 A. Okay.</p>	<p style="text-align: right;">Page 80</p> <p>1 A. Yes.</p> <p>2 Q. Okay. And what do you -- when you use 3 nauseous and queasy different, why do you 4 differentiate that? Like what's the difference?</p> <p>5 A. I don't know. I guess it's the same?</p> <p>6 Q. Okay. Is -- okay. That's fine.</p> <p>7 How long did you work on March 30?</p> <p>8 A. Not even 30 minutes. Or roughly about 9 30 minutes.</p> <p>10 Q. Okay. And who was working with you 11 that day?</p> <p>12 A. Nick, the supervisor, and I think one 13 -- one other. I do not recall his name.</p> <p>14 Q. Okay. Do you remember if there was 15 anyone else in the area, or was it just you and the 16 other worker and Nick?</p> <p>17 A. I think that's about it. I mean, it 18 was probably a few others, but I do not recall their 19 names or where they was at.</p> <p>20 Q. Okay. Did you talk to any of them 21 about feeling sick?</p> <p>22 A. No.</p> <p>23 Q. Okay. Throughout the day was there 24 anything that changed in that 30 minutes?</p> <p>25 A. No. I just -- again, I felt a normal</p>
<p style="text-align: right;">Page 79</p> <p>1 Q. So do you see in that paragraph where 2 it says, "I was having my usual seasonal allergy 3 symptoms, which were scratchy throat, runny nose, 4 and watery eyes"?</p> <p>5 A. Yes.</p> <p>6 Q. Is that accurate?</p> <p>7 A. Yes. A hundred percent.</p> <p>8 Q. Okay. So on March 30 when you went in 9 you did actually have a runny nose?</p> <p>10 A. Yes. Yes.</p> <p>11 Q. All right. I'm going to stop sharing 12 this.</p> <p>13 And did you have a scratchy throat as 14 well?</p> <p>15 A. Itchy throat, yes.</p> <p>16 Q. Itchy throat? And watery eyes too?</p> <p>17 A. Yes.</p> <p>18 Q. Okay. Did you feel sick in any other 19 way?</p> <p>20 A. No. Just, you know, allergy symptoms.</p> <p>21 Q. Okay. And you said earlier that you 22 felt nauseous too?</p> <p>23 A. Or queasy.</p> <p>24 MS. MATCHETT: Objection.</p> <p>25 Q. Oh, queasy?</p>	<p style="text-align: right;">Page 81</p> <p>1 allergy symptom.</p> <p>2 Q. Was there a point that you decided that 3 you should take a COVID test?</p> <p>4 A. Yes. One of the products that I was 5 working on had a distinctive smell, and I couldn't 6 smell that product, and that alarmed me, so that's 7 when I informed my supervisor just in case because 8 again, allergy season, I can't smell anything 9 anyway, so just to be sure, I let him know what was 10 going on, and then he informed me to leave and take 11 a COVID test.</p> <p>12 Q. Okay. What was the product?</p> <p>13 A. A vanity.</p> <p>14 Q. Like a --</p> <p>15 A. Like a desk or a -- some kind of 16 furniture thing.</p> <p>17 Q. What was the distinctive smell that it 18 had?</p> <p>19 A. Like a -- it was really strong, like 20 pneumonia.</p> <p>21 Q. Pneumonia or ammonia?</p> <p>22 A. I'm sorry. Ammonia.</p> <p>23 Q. Ammonia?</p> <p>24 A. Yes.</p> <p>25 Q. All right. And did you discuss that</p>

<p style="text-align: right;">Page 82</p> <p>1 with anyone other than Nick?</p> <p>2 A. Just Nick.</p> <p>3 Q. All right. Did you complain to anyone</p> <p>4 that you were coming into work with COVID symptoms?</p> <p>5 A. With COVID symptoms? No. Again, I</p> <p>6 had allergy symptoms.</p> <p>7 Q. Okay. And one of your allergy symptoms</p> <p>8 was runny nose, right?</p> <p>9 A. Correct.</p> <p>10 Q. That's also a symptom of COVID, right?</p> <p>11 A. Also correct.</p> <p>12 Q. Okay. And then cough was also one of</p> <p>13 your allergy symptoms, right?</p> <p>14 A. Yes.</p> <p>15 Q. And that's also a symptom of COVID,</p> <p>16 right?</p> <p>17 A. Yes.</p> <p>18 Q. Okay. What, exactly, did you tell Nick</p> <p>19 when you approached him?</p> <p>20 A. What I told Nick that I remember is</p> <p>21 that, hey, man, I -- I can't smell this. I'm</p> <p>22 concerned. What are the precautions of me, you</p> <p>23 know, leaving? Am I getting points added onto me?</p> <p>24 Like what's going on with that? And he informed me</p> <p>25 just go ahead, take your test, and then once you get</p>	<p style="text-align: right;">Page 84</p> <p>1 Q. Okay. Do you recall if you were around</p> <p>2 anyone? Like were you around this other coworker in</p> <p>3 the morning?</p> <p>4 A. At a distance.</p> <p>5 Q. Okay. Did you talk to him at all?</p> <p>6 A. No.</p> <p>7 Q. Did you talk to anyone other than Nick</p> <p>8 about going to take a COVID test?</p> <p>9 A. Just Nick.</p> <p>10 Q. Okay. And did you talk to anyone else</p> <p>11 about allergies?</p> <p>12 A. Nope.</p> <p>13 Q. Okay. Did you notice any lack of taste</p> <p>14 at all around that time?</p> <p>15 A. The only thing I can say that I</p> <p>16 remember is I couldn't smell the vanity.</p> <p>17 Q. Okay. And do you recall where you went</p> <p>18 to take the test?</p> <p>19 A. At the CVS in Mount Holly.</p> <p>20 Q. Okay. And did you have to schedule an</p> <p>21 appointment for that?</p> <p>22 A. I do not recall. I think it was</p> <p>23 either that day or the next day is when I took the</p> <p>24 test.</p> <p>25 Q. Okay. And do you recall what the</p>
<p style="text-align: right;">Page 83</p> <p>1 the results email me and HR.</p> <p>2 Q. Okay. Did they say anything about</p> <p>3 points or anything like that?</p> <p>4 A. No. I mean, with points, I assumed</p> <p>5 that I had close to five or six points, and then he</p> <p>6 informed me that I only had three, and that I'm</p> <p>7 okay, and then to, you know, go home, take the test,</p> <p>8 and then fill me in with the results.</p> <p>9 Q. Okay. Do you remember what time it was</p> <p>10 when this happened?</p> <p>11 A. Approximately between 6 and 7 in the</p> <p>12 morning.</p> <p>13 Q. Okay. Did you tell Nick that you had</p> <p>14 allergies?</p> <p>15 A. I believe I did, yes.</p> <p>16 Q. Do you actually recall telling him</p> <p>17 that?</p> <p>18 A. Honestly, no.</p> <p>19 Q. Okay. Do you remember what symptoms</p> <p>20 you told him you did have?</p> <p>21 A. It was honestly itchy eyes and the</p> <p>22 slight cough. That's really it.</p> <p>23 Q. So you did tell him you had itchy eyes</p> <p>24 and the slight cough?</p> <p>25 A. Yes.</p>	<p style="text-align: right;">Page 85</p> <p>1 results of that test were?</p> <p>2 A. Yes. It was a positive. I found out</p> <p>3 I was positive April 2.</p> <p>4 Q. All right. I'm going to show you what</p> <p>5 I'm going to mark as P-18.</p> <p>6 (Exhibit P-18, Copy of a cell phone</p> <p>7 screenshot of a result of a COVID-19 test taken on</p> <p>8 3/30/2021 Bates stamped D-000114, is marked for</p> <p>9 identification.)</p> <p>10 Q. Take a look at that, and tell me when</p> <p>11 to scroll.</p> <p>12 A. You can scroll. Okay. Okay.</p> <p>13 Q. Do you recognize that?</p> <p>14 A. Yes.</p> <p>15 MS. FREY: And sorry. For the record,</p> <p>16 this is D114.</p> <p>17 Q. And what is it?</p> <p>18 A. This was the results I received from</p> <p>19 My Charts through CVS, the app.</p> <p>20 Q. Okay. And is it the -- does it have</p> <p>21 the positive COVID test result?</p> <p>22 A. Yes.</p> <p>23 Q. Okay. And did you ever tell Wayfair</p> <p>24 about the positive test result?</p> <p>25 A. Yes. I emailed them as soon as I</p>

<p>1 found out.</p> <p>2 Q. Okay. Do you remember who you emailed?</p> <p>3 A. I emailed Nick, and I emailed HR. I</p> <p>4 think her name -- Madison.</p> <p>5 Q. Okay. Now, before you actually got the</p> <p>6 results did you tell HR that you were taking the</p> <p>7 COVID test?</p> <p>8 A. I believe I did. I really don't</p> <p>9 remember.</p> <p>10 Q. Okay. I'm going to share what I'm</p> <p>11 marking as P-19, and it's Bates labeled D132.</p> <p>12 (Exhibit P-19, Email from Dj Gaines to</p> <p>13 tmCranbury18@Wayfair.com and Nick Segura dated March</p> <p>14 30, 2021, Bates stamped D-000132, is marked for</p> <p>15 identification.)</p> <p>16 Q. Can you just read that?</p> <p>17 A. Okay.</p> <p>18 Q. Do you recall sending that email?</p> <p>19 A. Yes.</p> <p>20 Q. And is that accurate?</p> <p>21 A. Yes.</p> <p>22 Q. And then I'm going to mark this P-20,</p> <p>23 and it's D133.</p> <p>24 (Exhibit P-20, Cell phone screenshot</p> <p>25 of a MC SDS COVID testing appointment on March 30,</p>	<p>Page 86</p> <p>1 A. Yes.</p> <p>2 Q. Do you recall saying anything to HR</p> <p>3 once you got the positive test result back?</p> <p>4 A. From my memory, again, I just informed</p> <p>5 Nick about my results and HR. I think the same --</p> <p>6 almost the same exact email explaining to them that,</p> <p>7 you know, I tested positive and everything, and I'm</p> <p>8 waiting to see when I can come back to work, and</p> <p>9 also the amount of time that I have to stay out for</p> <p>10 having COVID.</p> <p>11 Q. Okay. Do you recall apologizing once</p> <p>12 you got the positive test result?</p> <p>13 MS. MATCHETT: Objection. You can</p> <p>14 answer.</p> <p>15 You can answer.</p> <p>16 A. I think I have, yes.</p> <p>17 Q. Okay. I'm going to mark this P-21.</p> <p>18 It's Bates labeled D119.</p> <p>19 (Exhibit P-21, Email from Dj Gaines to</p> <p>20 tmCranbury18@Wayfair.com and Nick Segura dated April</p> <p>21 2, 2021, Bates stamped D-000119, is marked for</p> <p>22 identification.)</p> <p>23 Q. Can you read this email?</p> <p>24 A. Okay.</p> <p>25 Q. Do you recall sending that email?</p>
<p>1 2021, Bates stamped D-000133, is marked for</p> <p>2 identification.)</p> <p>3 Q. Can you just read that?</p> <p>4 A. Okay.</p> <p>5 Q. And do you recognize that?</p> <p>6 A. Yes.</p> <p>7 Q. Okay. What is it?</p> <p>8 A. That's also from My Charts.</p> <p>9 Q. Okay. And what is My Charts?</p> <p>10 A. Best description of it is it's almost</p> <p>11 like you go in to visit a doctor without actually</p> <p>12 physically going to the doctor's. You can make</p> <p>13 appointments, schedule either appointments, get your</p> <p>14 medicine, or schedule a call with your doctor</p> <p>15 without actually going to see them.</p> <p>16 Q. Okay.</p> <p>17 A. It's another place where you can hold</p> <p>18 all your information.</p> <p>19 Q. Okay. And so was this where you</p> <p>20 scheduled the COVID test?</p> <p>21 A. Yes.</p> <p>22 Q. Okay. Is Jenice Caldwell the one who</p> <p>23 administered it?</p> <p>24 A. I believe so, yes.</p> <p>25 Q. Okay. And did you take it at 1:00?</p>	<p>Page 87</p> <p>1 A. Yes.</p> <p>2 Q. And why did you say that you hoped they</p> <p>3 could forgive you?</p> <p>4 A. Well, honestly, after, you know,</p> <p>5 receiving COVID I just didn't want anybody else to</p> <p>6 be infected by it. You know what I mean. Like I</p> <p>7 don't -- I didn't want anybody else to go through</p> <p>8 what I've been through because from my</p> <p>9 understanding, no one had it prior, you know, so --</p> <p>10 and COVID then was -- it still is -- a scare, you</p> <p>11 know, so...</p> <p>12 Q. Did you realize at that point that you</p> <p>13 probably had it since the 28th?</p> <p>14 A. No.</p> <p>15 MS. MATCHETT: Objection. You can</p> <p>16 answer.</p> <p>17 You've answered. That's fine.</p> <p>18 A. Again, I -- I'm sorry.</p> <p>19 Q. Go ahead.</p> <p>20 A. Again, I -- I thought it was allergy</p> <p>21 symptoms. So after I found out that it wasn't the</p> <p>22 case, then, you know, I felt bad for the team</p> <p>23 because we didn't have that much team to begin with.</p> <p>24 Q. Okay. So initially you had thought it</p> <p>25 was allergy symptoms, but then once you got the</p>

<p style="text-align: right;">Page 90</p> <p>1 positive test you realized it was probably COVID    2 symptoms?</p> <p>3 A. Correct.</p> <p>4 Q. Okay. Do you remember, did anyone    5 respond to this email? Did Nick ever respond to it?</p> <p>6 A. Not that I recall.</p> <p>7 Q. Okay. Did Nick ever talk to you or did    8 you ever talk to Nick after getting the positive    9 COVID test result?</p> <p>10 A. All I could remember is me asking them    11 when I could return to work.</p> <p>12 Q. Okay. Do you remember when that was?</p> <p>13 A. April 6 or 7 -- or I'm sorry. Between    14 the 5th and the 7th.</p> <p>15 Q. Okay. Do you remember what he said?</p> <p>16 A. He said that HR would contact me.</p> <p>17 Q. Okay. Did he say anything else?</p> <p>18 A. That's really it.</p> <p>19 Q. Was it a phone call or an email?</p> <p>20 A. Email.</p> <p>21 Q. Okay. And did you -- I think you said    22 you also remember reaching out to Madison, so I'm    23 going to show you P-22, and it's Bates labeled D130.</p> <p>24 (Exhibit P-22, Email exchange between    25 Dj Gaines and Madison Irons dated April 2 and April</p>	<p style="text-align: right;">Page 92</p> <p>1 been COVID after you tested positive?</p> <p>2 A. On the 30th, yes.</p> <p>3 Q. Okay. When you say "on the 30th," what    4 do you mean?</p> <p>5 A. Meaning the -- the two days before I    6 felt fine. Or the day before --</p> <p>7 Q. Okay.</p> <p>8 A. -- I felt extremely fine, you know,    9 and then on the 30th I went to work with, as I    10 recall, a normal allergy symptom, and that's when I    11 left.</p> <p>12 Q. All right. And realized later that    13 that had probably, rather than allergies, been    14 COVID?</p> <p>15 A. Correct.</p> <p>16 Q. Okay.</p> <p>17 MS. MATCHETT: Objection. You can    18 answer.</p> <p>19 A. Correct.</p> <p>20 Q. Do you recall getting terminated from    21 Wayfair?</p> <p>22 A. Yes.</p> <p>23 Q. Okay. And do you recall why you were    24 terminated?</p> <p>25 A. From what I remember, I believe it was</p>
<p style="text-align: right;">Page 91</p> <p>1 4, 2021, Bates stamped D-000130, is marked for    2 identification.)</p> <p>3 Q. Can you just read this email?</p> <p>4 A. Um-hum. Yes.</p> <p>5 Q. Do you remember sending that email?</p> <p>6 A. Yes, I do.</p> <p>7 Q. Did you ever speak to Madison after    8 sending the email?</p> <p>9 A. No.</p> <p>10 Q. Okay. Did you try to call her?</p> <p>11 A. Not Madison. If I did call, it was    12 probably to HR to speak to somebody about my return    13 date.</p> <p>14 Q. Okay. Do you remember ever speaking to    15 somebody?</p> <p>16 A. No.</p> <p>17 Q. Okay. And just to sum up, so on the    18 30th you came to work, and you had allergy symptoms,    19 right?</p> <p>20 A. Correct.</p> <p>21 Q. You then later went and took a test,    22 right?</p> <p>23 A. Correct.</p> <p>24 Q. And then realized probably your allergy    25 symptoms for the past -- since the 28th had probably</p>	<p style="text-align: right;">Page 93</p> <p>1 Madison. She said that she looked at cameras and    2 determined that I purposely knew I had it, and that    3 was that, and I just got terminated.</p> <p>4 Q. So did you have a conversation with    5 Madison about the termination?</p> <p>6 A. I believe so, but --</p> <p>7 Q. I mean, --</p> <p>8 A. -- she didn't answer me. Like she --    9 I know I emailed her about something, and then she    10 never responded to me.</p> <p>11 Q. Okay. So I don't want you to guess    12 here, so do you recall having a conversation with    13 her, or do you just think you probably did?</p> <p>14 A. I think I have, yes.</p> <p>15 Q. Okay. But you don't recall for sure    16 that you did?</p> <p>17 A. No.</p> <p>18 Q. Okay. I'm going to show you what I'm    19 marking as P-23.</p> <p>20 (Exhibit P-23, Nine-page document    21 containing an email from Madison Irons to Darryl    22 Gaines dated April 7, 2021, with attachments, Bates    23 stamped D-000143 to 151, is marked for    24 identification.)</p> <p>25 Q. Can you just take a look at that and</p>

<p>1 tell me when to scroll?</p> <p>2 A. You can scroll. Okay. Okay. Okay.</p> <p>3 Okay. Okay. Okay. Okay.</p> <p>4 Okay. I do recall this.</p> <p>5 Q. Okay.</p> <p>6 MS. FREY: And sorry. Just for the</p> <p>7 record, that's Bates labeled 151.</p> <p>8 Q. So do you -- you recall receiving this</p> <p>9 email?</p> <p>10 A. Yes.</p> <p>11 Q. Okay. And is --</p> <p>12 MS. MATCHETT: I'm sorry, --</p> <p>13 Q. -- that --</p> <p>14 MS. MATCHETT: -- Rachel. I'm sorry.</p> <p>15 So it's what to 151?</p> <p>16 MS. FREY: Oh, I'm sorry. Oh. Sorry.</p> <p>17 D143 --</p> <p>18 MS. MATCHETT: That's all right.</p> <p>19 MS. FREY: -- to 151.</p> <p>20 MS. MATCHETT: Gotcha. All right.</p> <p>21 Thanks.</p> <p>22 Q. And was April 7, 2021, was that the</p> <p>23 date of your separation?</p> <p>24 A. Yes.</p> <p>25 Q. Okay. And I'm going to show you what</p>	<p>Page 94</p> <p>1 allergy symptoms: Runny nose, a cough, and a</p> <p>2 scratchy throat, are also COVID symptoms?</p> <p>3 MS. MATCHETT: Objection. You can</p> <p>4 answer.</p> <p>5 A. Yes.</p> <p>6 Q. Okay. And you did go to work knowing</p> <p>7 you had those symptoms?</p> <p>8 A. Allergy symptoms, yes.</p> <p>9 Q. Okay. All right. Is there anything</p> <p>10 else on this that you disagree with?</p> <p>11 A. That's it.</p> <p>12 Q. Okay. I'm marking this P-25, and it's</p> <p>13 D142.</p> <p>14 (Exhibit P-25, Email from Darryl</p> <p>15 Gaines to Madison Irons dated April 7, 2021, Bates</p> <p>16 stamped D-000142, is marked for identification.)</p> <p>17 Q. Can you take a look at this email?</p> <p>18 A. Yes, I can. Okay.</p> <p>19 Q. Do you recall sending that email?</p> <p>20 A. Yes, I do.</p> <p>21 Q. And do you recall why you sent the</p> <p>22 email?</p> <p>23 A. Yes. Just to -- I guess to make it</p> <p>24 known that, you know, I would never knowingly work</p> <p>25 with having a COVID symptom. You know, I just</p>
<p>1 I'm going to mark P-24.</p> <p>2 (Exhibit P-24, Wayfair Termination</p> <p>3 Report dated effective 4/7/21 Bates stamped D-000001</p> <p>4 and 2, is marked for identification.)</p> <p>5 Q. And this is D1 to D2. Can you take a</p> <p>6 look at that?</p> <p>7 A. Yes, I can. Okay. Okay. Okay.</p> <p>8 Okay.</p> <p>9 Q. Do you recall receiving this</p> <p>10 termination report?</p> <p>11 A. Yes.</p> <p>12 Q. Okay. Did you ever discuss the</p> <p>13 termination report with anyone?</p> <p>14 A. No.</p> <p>15 Q. Is there anything inaccurate on this</p> <p>16 termination report? If you want me to scroll</p> <p>17 through the whole thing again, I can.</p> <p>18 A. The bottom right there, yeah, the</p> <p>19 reason, the dates are off.</p> <p>20 Q. Okay. And how are the dates off?</p> <p>21 A. Like I said before, on the 28th and</p> <p>22 the 30th besides, you know, my stomach cramping up,</p> <p>23 the 29th I was fine. And on the 30th I just had the</p> <p>24 allergy symptom.</p> <p>25 Q. Okay. Do you understand that those</p>	<p>Page 95</p> <p>1 honestly wanted to be reinstated. Like I made a</p> <p>2 practical decision, and that's what I believe that I</p> <p>3 did, which was a hundred percent correct, and then</p> <p>4 reach an understanding, you know, why and what to do</p> <p>5 moving forward.</p> <p>6 Q. Okay. When you said in the email --</p> <p>7 when it says your allergy symptoms were not going</p> <p>8 away or got worse, what did you mean by when you say</p> <p>9 they got worse?</p> <p>10 A. Just the itchy eyes, the constantly</p> <p>11 scratching the eyes. You know, I just don't want, I</p> <p>12 guess, everybody to think that I had -- you know, I</p> <p>13 had COVID, which I didn't, you know. I just allergy</p> <p>14 symptom, you know. So coming in there coughing,</p> <p>15 especially back then, if you coughed too hard</p> <p>16 everybody is going to look at you differently, you</p> <p>17 know, so...</p> <p>18 Q. Well, you did have COVID though, right?</p> <p>19 A. I had allergies, and then when I went</p> <p>20 to that test is when I found out I had COVID.</p> <p>21 Q. So you did have COVID, right?</p> <p>22 MS. MATCHETT: Objection. You can</p> <p>23 answer.</p> <p>24 A. On the 30th I had allergies, and when</p> <p>25 that same day I went to get tested, that's when I</p>

25 (Pages 94 - 97)

<p style="text-align: right;">Page 98</p> <p>1 found out on April the 2nd I had COVID.    2 Q. And so in hindsight did you realize    3 those allergy symptoms were actually COVID?    4 MS. MATCHETT: Objection. You can    5 answer.    6 A. I couldn't tell.    7 Q. Okay.    8 A. I just thought I had allergies, and    9 then when I went to take the test, come to find out    10 it was COVID.    11 Q. Okay. Did Madison ever respond to this    12 email?    13 A. No.    14 Q. Did you ever try and call her?    15 A. No.    16 Q. Did you try and talk to anyone else?    17 A. No. I couldn't after that.    18 Q. Why do you say you couldn't?    19 A. As soon as I got separated from the    20 company, my work emails did not work.    21 Q. Okay. So you didn't have any contact    22 information saved?    23 A. No. So I just had to -- I couldn't    24 get no one's contact information.    25 Q. Okay. So I guess did Nick ever make</p>	<p style="text-align: right;">Page 100</p> <p>1 A. -- no answers.    2 Q. When did the CDC call you?    3 A. Approximately April 2, when I found    4 out I had COVID.    5 Q. Okay. Had you reported it to the CDC?    6 Do you know why they called?    7 A. Not that I recall. All I know is that    8 they did call me and to instruct me on what to do.    9 Q. Okay. And did you -- like how did you    10 feel when you had COVID?    11 MS. MATCHETT: Objection. You could    12 answer.    13 A. Okay. Besides bad, you know, it's    14 hard to explain because it's -- it affects everybody    15 differently, you know, so I felt fine. I didn't    16 have a fever. I just couldn't go outside for about    17 two weeks. Other than that, that was really it.    18 Q. Okay. And not being able to go    19 outside, was that because of the quarantine or    20 because you were so sick you couldn't go outside?    21 A. Because of the quarantine.    22 Q. Okay. So if you hadn't been    23 quarantined would you have just gone about life like    24 normal?    25 MS. MATCHETT: Objection. You could</p>
<p style="text-align: right;">Page 99</p> <p>1 any comments about you having COVID? Like did he    2 ever say --    3 MS. MATCHETT: Objection to form.    4 Q. -- anything about it?    5 A. No.    6 MS. MATCHETT: Same objection. You    7 could answer.    8 A. No, he did not.    9 Q. Okay. Do you remember Madison Irons    10 ever making any comments about you having COVID?    11 A. No.    12 MS. MATCHETT: Objection. You could    13 answer.    14 Q. Okay. Was this the only time you've    15 ever had COVID?    16 A. Yes.    17 Q. Okay. Sorry. I guess that you know    18 of.    19 Did you receive any treatment after you    20 got COVID?    21 A. There really isn't treatment for    22 COVID, especially back then. All I could tell you    23 that CDC called me and told me just to stay inside    24 and quarantine myself. They had --    25 Q. Okay.</p>	<p style="text-align: right;">Page 101</p> <p>1 answer.    2 A. Can you repeat the question one more    3 time, please?    4 Q. So if you hadn't been quarantined -- I    5 guess what I'm asking is were you sick enough where    6 you were like bedridden, or were you just going    7 about like normal?    8 MS. MATCHETT: Objection. You could    9 answer.    10 A. Okay. Well, I felt fine. There's    11 been times when, you know, my stomach would hurt,    12 but other than that, I was in bed playing video    13 games most of the time and just recovering.    14 Q. Okay. And how long did your symptoms    15 last?    16 A. Very long time.    17 MS. MATCHETT: Objection. You can    18 answer.    19 Q. Can you give me an approximation of    20 what a "very long time" is?    21 A. Okay. Well, the fever and everything    22 else has gone. Currently I no longer have a taste    23 or smell.    24 Q. So you still don't have taste or smell    25 now?</p>

Page 102	Page 104
<p>1 A. Yes.</p> <p>2 Q. Okay. And wait. So did you have a</p> <p>3 fever or not?</p> <p>4 A. No.</p> <p>5 Q. No fever. Okay. How long did the</p> <p>6 runny nose last?</p> <p>7 A. Not that long.</p> <p>8 Q. And what about the -- sorry. Go ahead.</p> <p>9 A. The runny nose did not last long. The</p> <p>10 coughing, that stopped, but all I can say honestly</p> <p>11 is that my sense of taste and smell was completely</p> <p>12 gone.</p> <p>13 Q. Okay. Has it come back at all since</p> <p>14 then?</p> <p>15 A. No.</p> <p>16 Q. Did you ever tell Nick about how you</p> <p>17 felt when you had COVID?</p> <p>18 A. No, 'cause after I got separated from</p> <p>19 the company there was no more communication within</p> <p>20 the job itself, including Nick or anybody.</p> <p>21 Q. So does the same go for Madison too;</p> <p>22 you didn't talk to her about how sick you felt?</p> <p>23 A. Yes.</p> <p>24 Q. Yes, you did talk to her or --</p> <p>25 A. No. I'm sorry. I'm sorry. Yes, I</p>	<p>1 MS. MATCHETT: Objection. You can</p> <p>2 answer.</p> <p>3 A. I believe COVID was a disability.</p> <p>4 Q. Okay. Anything else?</p> <p>5 A. That's all I can recall.</p> <p>6 Q. Okay. And you also have a perceived</p> <p>7 disability claim. Was that also COVID?</p> <p>8 A. I believe so, yes.</p> <p>9 Q. Okay. Anything else?</p> <p>10 A. That's all I could recall.</p> <p>11 Q. Okay. And who do you allege</p> <p>12 discriminated against you because you got COVID?</p> <p>13 MS. MATCHETT: Objection. You can</p> <p>14 answer.</p> <p>15 A. HR. Okay. HR.</p> <p>16 Q. Who in HR?</p> <p>17 MS. MATCHETT: Objection. You can</p> <p>18 answer.</p> <p>19 A. Okay. My opinion, just HR in general,</p> <p>20 or I guess I -- I guess how I got separated. I'm</p> <p>21 trying to answer the question.</p> <p>22 Q. Well, you allege HR discriminated</p> <p>23 against you because you got COVID. Is it just HR as</p> <p>24 a whole?</p> <p>25 A. I guess the combination --</p>
Page 103	Page 105
<p>1 did not talk to her.</p> <p>2 Q. Okay. Sorry. That was how I asked the</p> <p>3 question.</p> <p>4 Was there anyone else that you -- at</p> <p>5 Wayfair that you talked to about how you felt while</p> <p>6 you had COVID?</p> <p>7 A. No.</p> <p>8 Q. Okay. Did Madison ever make any</p> <p>9 comments about how sick she thought you would get or</p> <p>10 like having COVID itself to you?</p> <p>11 A. No. Madison did not talk to me really</p> <p>12 at all.</p> <p>13 Q. Okay. Was there anyone else from HR --</p> <p>14 in Wayfair they call it talent management. But was</p> <p>15 there anyone else from talent management that talked</p> <p>16 to you about your symptoms?</p> <p>17 A. No. No one contacted me.</p> <p>18 Q. Okay. And you never went to -- you</p> <p>19 were never hospitalized or anything like that for</p> <p>20 COVID?</p> <p>21 A. No. No.</p> <p>22 Q. Okay. So in this lawsuit you're</p> <p>23 claiming that you were discriminated against based</p> <p>24 on a disability. Can you tell me what that</p> <p>25 disability is?</p>	<p>1 MS. MATCHETT: Objection. Hold on.</p> <p>2 Hold on. I'll just have you stop for a second.</p> <p>3 I think that's a mischaracterization of</p> <p>4 the testimony. I'm going to allow him to answer,</p> <p>5 but I don't think that aligns with the earlier</p> <p>6 questioning.</p> <p>7 MS. FREY: Okay. That's fine.</p> <p>8 Q. So what evidence -- I guess what is</p> <p>9 your evidence of any discrimination?</p> <p>10 MS. MATCHETT: Objection. You can</p> <p>11 answer.</p> <p>12 A. Okay. Best of my knowledge, the fact</p> <p>13 that I got terminated with COVID without, in my</p> <p>14 opinion, proper explanations or, you know, ways</p> <p>15 about handling the situation.</p> <p>16 Q. And what do you mean by "ways about</p> <p>17 handling the situation"?</p> <p>18 A. The fact that no one was contacting me</p> <p>19 of what to do, I felt like they left me high and</p> <p>20 dry. That was in the means of at least getting some</p> <p>21 information back on when to return to work. I know</p> <p>22 people who had COVID came back to work fine, and I</p> <p>23 was just wondering like, all right, I've quarantined</p> <p>24 myself, so when is my -- my return date? And I</p> <p>25 didn't receive any information, you know, about me</p>

<p style="text-align: right;">Page 106</p> <p>1 coming back to work.</p> <p>2 Q. Okay. And who else did you know that</p> <p>3 had COVID and returned to work fine?</p> <p>4 A. People from different departments. I</p> <p>5 don't know specifics.</p> <p>6 Q. No names?</p> <p>7 A. No. No names.</p> <p>8 Q. Okay. Do you know who they were</p> <p>9 supervised by?</p> <p>10 A. No, I did not.</p> <p>11 Q. Okay. And do you know whether they</p> <p>12 came to work experiencing COVID symptoms?</p> <p>13 A. No, I do not.</p> <p>14 Q. Okay. Is that just you don't know?</p> <p>15 A. Yeah. I just -- I don't know. The</p> <p>16 only thing --</p> <p>17 Q. Okay.</p> <p>18 A. -- I do know is that during standup</p> <p>19 Nick will read us who had it or what department, you</p> <p>20 know, had a case, and, you know, if they returned to</p> <p>21 work or not.</p> <p>22 Q. Okay. So I guess -- so you understand</p> <p>23 that Wayfair's policy is to terminate someone if</p> <p>24 they come to work with COVID. Is that fair?</p> <p>25 A. I --</p>	<p style="text-align: right;">Page 108</p> <p>1 Q. Well, do you understand that even if</p> <p>2 you don't have a positive test, if you have COVID</p> <p>3 symptoms that you're subject to termination?</p> <p>4 A. Not that I recall then.</p> <p>5 Q. So you thought it was fine to go to</p> <p>6 work with COVID?</p> <p>7 A. Again, I did not go -- personally</p> <p>8 go --</p> <p>9 MS. MATCHETT: Objection. You can</p> <p>10 answer.</p> <p>11 A. -- to work with --</p> <p>12 Q. Well, that's not my question.</p> <p>13 A. Okay.</p> <p>14 Q. My question is just do you understand</p> <p>15 that if you had COVID symptoms you weren't supposed</p> <p>16 to go to work? Is that something you understood?</p> <p>17 A. Yes.</p> <p>18 MS. MATCHETT: Objection. You can</p> <p>19 answer.</p> <p>20 Q. Okay. Did you -- so I guess -- so my</p> <p>21 question is what evidence do you have that Wayfair</p> <p>22 didn't just terminate you because you came to work</p> <p>23 with a scratchy throat, which is a COVID symptom; a</p> <p>24 runny nose, which is a COVID symptom; and a cough,</p> <p>25 which is a COVID symptom? Do you have any evidence</p>
<p style="text-align: right;">Page 107</p> <p>1 MS. MATCHETT: Objection. You can</p> <p>2 answer.</p> <p>3 A. From what I read, yes.</p> <p>4 Q. Okay. And when you say from what you</p> <p>5 read, did you know that before you read that today?</p> <p>6 A. Yes. Yes.</p> <p>7 Q. Okay. Do you have any reason to</p> <p>8 believe that you weren't terminated because Wayfair</p> <p>9 believed you came to work with COVID symptoms?</p> <p>10 A. Well, again, I --</p> <p>11 MS. MATCHETT: Objection. You can</p> <p>12 answer.</p> <p>13 A. Okay. When I went to work it -- I</p> <p>14 felt fine. It was allergy related symptoms. And</p> <p>15 then, you know, when I did find out after I left</p> <p>16 work that I got COVID, I got fired. You know, I</p> <p>17 guess I didn't understand why. You know, I didn't</p> <p>18 work on the schedule. I wasn't scheduled to work.</p> <p>19 I followed that directions policy, which was to</p> <p>20 quarantine for two weeks, and then after I tested</p> <p>21 negative, after the quarantine is over, then I</p> <p>22 should be able to return back to work, but I didn't</p> <p>23 get that far to, you know, test negative to come</p> <p>24 back to work. They -- days later they just</p> <p>25 terminated me.</p>	<p style="text-align: right;">Page 109</p> <p>1 that they terminated you for any other reason?</p> <p>2 A. No.</p> <p>3 MS. MATCHETT: Objection. You could</p> <p>4 answer.</p> <p>5 A. No.</p> <p>6 Q. Okay. And I guess aside from HR, is</p> <p>7 there -- are you alleging that Nick discriminated</p> <p>8 against you based on your -- based on COVID?</p> <p>9 MS. MATCHETT: Objection. You could</p> <p>10 answer.</p> <p>11 A. No.</p> <p>12 Q. Okay. Did you ever request time off</p> <p>13 because of COVID?</p> <p>14 MS. MATCHETT: Objection. You can</p> <p>15 answer.</p> <p>16 A. I believe it was called the EPTO, I</p> <p>17 believe, but all I could recall is that that time</p> <p>18 frame I only worked three days, and I was off for</p> <p>19 the remaining days anyway.</p> <p>20 Q. Okay. So do you claim that Wayfair</p> <p>21 terminated you because you requested time off?</p> <p>22 A. No.</p> <p>23 Q. Okay. So I know you've said you knew</p> <p>24 there were other people who tested positive for</p> <p>25 COVID and then came back to work. Do you know of</p>

<p style="text-align: right;">Page 110</p> <p>1 anyone else who was terminated --  2 A. No.  3 Q. -- after testing positive for COVID?  4 Okay. No?  5 How many people do you know that tested  6 positive for COVID?  7 A. I do not know the numbers.  8 Q. Don't know the numbers. Okay.  9 Did anyone else on your team ever test  10 positive for COVID?  11 A. No.  12 Q. And do you know whether anyone else  13 supervised by Nick tested positive for COVID?  14 A. No.  15 MS. MATCHETT: Objection. You can  16 answer.  17 Q. And I think you said that Nick would  18 like list off like names of people who -- or like  19 people who tested positive. Was that like at the  20 startup meeting? How did that happen?  21 A. It wasn't names, it was department.  22 Like he would say like department -- I don't know.  23 At docking there was a case. That's really it, you  24 know.  25 Q. Okay. And that would just be the</p>	<p style="text-align: right;">Page 112</p> <p>1 the end of me working there.  2 Q. Okay. Can you just describe that?  3 A. Yes. It's a -- it's a little -- a  4 bracelet that people would wear. Like if you're too  5 close, it will go off --  6 Q. Okay.  7 A. -- and let people know, hey, back up  8 six feet.  9 Q. Was that effective at all?  10 A. No.  11 Q. Really?  12 A. It was not, no.  13 Q. Do you remember like what time period  14 it was?  15 A. When we received the bracelets?  16 Q. Yes.  17 A. No, I do not.  18 Q. All right. I actually -- actually, let  19 me go through one more thing, and I think it would  20 make sense to take a break after I go through this  21 one more thing.  22 All right. I'm sharing again the  23 interrogatories. I cannot recall what I marked them  24 though.  25 MS. MATCHETT: The rogs? 17.</p>
<p style="text-align: right;">Page 111</p> <p>1 startup meeting?  2 A. Right.  3 Q. Okay. Was there like -- did you guys  4 have like social distancing or anything like that?  5 A. We were supposed to.  6 Q. Okay. And when you say it was supposed  7 to, what do you mean?  8 A. Okay. So again, back then six feet,  9 but because our department was so small, there's  10 only five of us or a handful of us, we -- sometimes  11 we'd work together, especially for items that's too  12 heavy to carry, just to get a second opinion on what  13 this looks like. We were always together. So in  14 our department we was never six feet, but we did  15 wear our masks.  16 Q. Okay. Did you ever complain to anyone  17 that there wasn't social distancing?  18 A. No.  19 Q. Do you know if anyone else did?  20 A. No.  21 Q. Were you ever -- like did you ever wear  22 bracelets or anything like wristbands for like to  23 help with social distancing?  24 A. Yes. That happened not throughout the  25 whole time I worked there. That happened towards</p>	<p style="text-align: right;">Page 113</p> <p>1 MS. FREY: 17? Okay.  2 Q. So I'm showing you P-17 again, which  3 that was your answers to interrogatories. I just  4 want to ask you about one part. Can you just read  5 this bullet pointed list?  6 MS. MATCHETT: And this is in the  7 answer No. 11?  8 MS. FREY: Right. Answer No. 11 on  9 page 7. Yes.  10 A. Okay.  11 Q. So can you just tell me who Mo is?  12 A. Yes. Mo was the area supervisor who I  13 talked to on March 28 about me having upset stomach.  14 Q. Okay. Is that the only knowledge that  15 he has about this case?  16 A. Yes.  17 Q. At least that you're aware of.  18 And who is Nick? Is that Nick Segura?  19 A. Yes.  20 Q. Okay. And was he your supervisor?  21 A. Yes.  22 Q. And other than the interactions that  23 you have described earlier, is there any other like  24 knowledge that he has about this case that you're  25 aware of?</p>

<p style="text-align: right;">Page 122</p> <p>1 Q. Okay. And why do you believe that?</p> <p>2 A. The fact that how -- how it was during 3 me working at Wayfair. Personally the -- the rules 4 wasn't really enforced. Everyone was working 5 close-knit. It was kind of impossible to do your 6 job without being close with somebody.</p> <p>7 Again, these items is not light. 8 They're extremely heavy. We, again, have no choice 9 but to have a buddy system, especially when you're 10 just dealing with these heavy, heavy items.</p> <p>11 Q. And around when you got COVID did 12 anyone you were working closely with have COVID 13 symptoms that you recall?</p> <p>14 A. Not that I know of.</p> <p>15 MS. MATCHETT: Objection. You can 16 answer.</p> <p>17 You can answer.</p> <p>18 Q. And did anyone else test positive for 19 COVID?</p> <p>20 A. In my department?</p> <p>21 MS. MATCHETT: Objection. You can 22 answer.</p> <p>23 Q. Right. Yes. That you worked around.</p> <p>24 A. No. Not that I know of.</p> <p>25 Q. So are you saying that you caught COVID</p>	<p style="text-align: right;">Page 124</p> <p>1 you caught COVID from like going to those places?</p> <p>2 MS. MATCHETT: Objection. You can 3 answer.</p> <p>4 A. No.</p> <p>5 Q. Okay. And did you interact with people 6 outside of Wayfair like in your everyday life?</p> <p>7 A. No.</p> <p>8 Q. What about your roommate; did you 9 interact with her?</p> <p>10 A. No. Our -- our schedules did not 11 match up --</p> <p>12 Q. Okay.</p> <p>13 A. -- at all. Yes.</p> <p>14 Q. Did you have any friends outside work?</p> <p>15 A. Yes, I did, but after work I just go 16 straight home.</p> <p>17 Q. What about on your days off?</p> <p>18 A. Stay home.</p> <p>19 MS. MATCHETT: Objection. You can 20 answer.</p> <p>21 Q. Okay. So you never hung out with your 22 friends?</p> <p>23 A. No. Especially at that time. A 24 couple of years back there was really no hanging 25 out.</p>
<p style="text-align: right;">Page 123</p> <p>1 from someone who didn't have COVID?</p> <p>2 A. No, what I'm saying is that I could 3 possibly -- I could possibly get COVID from just 4 interacting with people in general at -- at working 5 there.</p> <p>6 Q. Well, I mean --</p> <p>7 MS. MATCHETT: Also object to -- I 8 object to the form of the question. He started to 9 answer, so I wanted to wait until he was done.</p> <p>10 MS. FREY: That's okay.</p> <p>11 Q. So do you think you can catch COVID 12 from someone who doesn't have COVID?</p> <p>13 A. No.</p> <p>14 MS. MATCHETT: Objection. You could 15 answer.</p> <p>16 Q. Okay. And you didn't know of anyone 17 that you were working closely with that had COVID, 18 right?</p> <p>19 A. Correct.</p> <p>20 Q. Okay. Is there any other reason that 21 you think you might have caught COVID at Wayfair 22 aside from just working close to people?</p> <p>23 A. Using the restroom, going to common 24 area to eat and, you know, smoke a cigarette.</p> <p>25 Q. Do you have any actual evidence that</p>	<p style="text-align: right;">Page 125</p> <p>1 Q. Okay. And were you working as a lot 2 attendant at that time?</p> <p>3 A. Yes. During the weekend.</p> <p>4 Q. Okay.</p> <p>5 A. When I'm not at Wayfair.</p> <p>6 Q. Okay. And did you interact with people 7 as a lot attendant?</p> <p>8 A. Yes.</p> <p>9 Q. Okay. And was that at the end of March 10 were you still doing lot attendant stuff?</p> <p>11 A. No. Not that week, no.</p> <p>12 Q. Not that week? What about the week 13 before?</p> <p>14 A. Week prior, yes.</p> <p>15 Q. Okay. And did you take time off from 16 the lot attendant, your job as a lot attendant when 17 you got COVID?</p> <p>18 A. Yes. I informed my boss there that I 19 got COVID, and I took the two weeks to quarantine.</p> <p>20 Q. Okay. Were you ever worried that they 21 would fire you for getting COVID?</p> <p>22 A. No.</p> <p>23 Q. So aside from the lost wages, are there 24 any other economic damages that you're alleging?</p> <p>25 A. Not that I can recall, no.</p>

<p style="text-align: right;">Page 126</p> <p>1 MS. MATCHETT: Objection. You can 2 answer.</p> <p>3 Q. Okay. So as -- how long after you were 4 -- so you were terminated from Wayfair, and you were 5 still working as a lot attendant. Were you able to 6 increase your hours there at that time?</p> <p>7 A. Unfortunately, no.</p> <p>8 Q. Okay. Was there a point down the road 9 that you were able to increase your hours?</p> <p>10 A. Yes.</p> <p>11 Q. When was that?</p> <p>12 A. I do not recall when exactly, but I 13 was informed by the GM that I could go from another 14 location to increase the hours.</p> <p>15 Q. Okay. Do you recall like what month 16 that was?</p> <p>17 A. Oh, jeez. Excuse me. I could only 18 honestly recall that it was hot, so around June. 19 June, July.</p> <p>20 Q. Okay. Would there be any like 21 paperwork reflecting that change?</p> <p>22 A. From the car dealership? No. I don't 23 think there was a paperwork exchange. It was more 24 of a phone call, like, hey, I'm sending someone over 25 to, you know, continue working.</p>	<p style="text-align: right;">Page 128</p> <p>1 department.</p> <p>2 Q. Okay. And what was the owner's name?</p> <p>3 A. Okay. The owner's name is Colin. The 4 manager at -- for the department, his name was Mike. 5 Those two names I mentioned there, they work at 6 Lucas Ford. And prior from this I worked at Lucas 7 Chevy, so his name -- the GM's name was Ryan, and 8 the manager's name was Bill.</p> <p>9 Q. Okay. Got it. And how much -- I think 10 you might have said this earlier. I think you said 11 you made 12.50 an hour --</p> <p>12 A. Yes.</p> <p>13 Q. -- at the dealership?</p> <p>14 Okay. And at some point it went up 50 15 cents, if I recall correctly. Is that right?</p> <p>16 A. Yes. Approximately, yes, correct.</p> <p>17 Q. Okay. Would it have gone up when you 18 went from the 20 hours or the part-time to the full 19 40 hours a week?</p> <p>20 A. I'm sorry. Can you repeat that one 21 more time?</p> <p>22 Q. Sorry. I'm trying to figure out when 23 did it go up the 50 cents?</p> <p>24 A. Well, it went up as soon as I went 25 from Lucas Chevy to Ford.</p>
<p style="text-align: right;">Page 127</p> <p>1 Q. Okay. Did you get -- did you receive 2 pay stubs for that job?</p> <p>3 A. Yes.</p> <p>4 Q. Do you know if those pay stubs have 5 been produced?</p> <p>6 A. Yes.</p> <p>7 Q. Okay.</p> <p>8 MS. FREY: And I'd just -- I would, 9 and I'll send you a letter about this later, 10 Jacquelyn, but if they have not, I would just 11 request those pay stubs.</p> <p>12 Q. All right. And would those pay stubs, 13 I guess, reflect when your hours increased?</p> <p>14 A. Yes.</p> <p>15 Q. Okay. And what did those hours 16 increase to?</p> <p>17 A. I believe 40 hours.</p> <p>18 Q. Okay. Who was your supervisor at the 19 company?</p> <p>20 A. At the car dealership?</p> <p>21 Q. Yeah.</p> <p>22 A. Well, the general manager, I had him, 23 and then my department manager. That's at one 24 location, and then I had -- I was directly under the 25 owner of the company and another manager for that</p>	<p style="text-align: right;">Page 129</p> <p>1 Q. Got it. Okay.</p> <p>2 A. As a thank you for, you know, doing 3 this.</p> <p>4 Q. Okay. And do you still work as a lot 5 attendant?</p> <p>6 A. No, I do not.</p> <p>7 Q. Okay. When did you stop?</p> <p>8 A. I believe -- sorry. All I could 9 remember was two holidays. I think either 10 Thanksgiving or Christmastime, so I believe it was 11 around Christmastime.</p> <p>12 Q. Do you know what year that was?</p> <p>13 A. Entering -- so I think 2021 into '22.</p> <p>14 Q. Okay. And why did you stop?</p> <p>15 A. The location was further than where I 16 lived at in Medford, and the amount of work that I 17 -- I did for Lucas Ford was way too much for a lot 18 attendant to do. Asking for an increase, I didn't 19 get their -- you know, the right answer, I guess, so 20 I decided to hop out, and I've been there for years, 21 so it was a mutual understanding.</p> <p>22 Q. Okay. What were they asking you to do 23 that was way beyond what a lot attendant did?</p> <p>24 A. Go to Costco and get snacks for the 25 vending machine, check the mail. You know, just</p>

# EXHIBIT B

Standard Documents	Document	Effective Date	Document Link	Document Attachment	Signature Type	Signed By	Signature Date	Signature Statement	Uploaded Document
PayActiv Acknowledgement		6/1/2020		PayActiv Acknowledgment.pdf	Acknowledgment	Dj Gaines (Terminated) <del>REDACTED</del>	11/9/2020 10:33	I acknowledge that I have read and understand the PayActiv Acknowledgement.	
Wayfair Employee Guide Link		1/20/2019	Wayfair Employee Guide Link		Acknowledgment	Dj Gaines (Terminated) <del>REDACTED</del>	11/9/2020 10:33	By checking the box below, I acknowledge receipt of the Wayfair Employee Guide and any applicable addenda. I have reviewed and understand the policies and guidelines set forth in the Employee Guide and addenda, and acknowledge that I have read and understand the included information concerning the "Purpose and Legal Effect" of this Employee Guide and addenda.	Wayfair Non-Solicitation, Non-Disclosure & Inventions Agreement Non-CA LO-L4_DocuSign_Uploaded
Wayfair Non-Solicitation, Non-Disclosure & Inventions Agreement Non-CA LO-L4_DocuSign		3/16/2020		Wayfair Non-Solicitation, Non-Disclosure & Inventions Agreement Non-CA LO-L4.docx	E-sign by DocuSign	Dj Gaines (Terminated) <del>REDACTED</del>	11/9/2020 10:35		
Wayfair Harassment Policy		1/1/1900		Wayfair Harassment Policy 2017-11-22.pdf	Acknowledgment	Dj Gaines (Terminated) <del>REDACTED</del>	11/9/2020 10:35	By checking the box below, I acknowledge receipt of a copy of the Company's Statement Prohibiting Harassment of Employees.	
								I have been given, have read, and understand Wayfair's Biometric Data Policy (the "Policy").	
								I understand that in the course of my employment with Wayfair I may be using "biometric technology," including but not limited to timekeeping terminals, biometric authenticators on company-issued devices, temperature verification systems, and/or wearable devices. I understand that by using these devices my Biometric Data may be collected, stored, and used in accordance with the Policy, for the purpose of associate identification and timekeeping, secure authentication, and protecting the health and safety of others.	
								I understand the limitations placed on Wayfair by the Policy with regards to the collection, use, storage, possession, transmission, disclosure, redisclosure, transfer, retention, and destruction of my Biometric Data. I further understand that Wayfair reserves the right to implement other biometric technology in addition to those described above. These future systems may also collect, use store, possess, transmit, disclose, redisclose, transfer, and/or retain my Biometric Data and I consent to any future biometric technology Wayfair may use.	
								I understand that my consent to the uses of my Biometric Data set forth in this policy is a condition of my employment at Wayfair. I have read this policy, I understand it, and I voluntarily consent to Wayfair and its vendors, affiliates, subcontractors, and licensors, collecting, capturing, storing, having access to, using, obtaining, possessing, and/or disclosing my Biometric Data as set forth in this Policy, by clicking the button below.	
Biometric Data Policy & Consent Form (Non-IL)		12/9/2020		All States (Minus Illinois) - Biometric Data Policy & Release Form - v3.pdf	Acknowledgment	Dj Gaines (Terminated) <del>REDACTED</del>	12/28/2020 14:25		
New Jersey Gender Equity Poster		1/8/2021		New Jersey Gender Equity Poster.pdf	Acknowledgment	Dj Gaines (Terminated) <del>REDACTED</del>	1/27/2021 7:42	By checking the box below, I acknowledge receipt of a copy of the New Jersey Gender Equity Poster, and that I have read it and I understand it.	000020

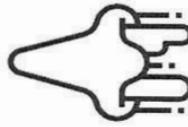
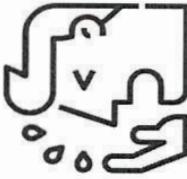
# EXHIBIT C

## Symptom Awareness and Symptomatic Policy

Any employee that is experiencing symptoms of the COVID-19 virus may not report to work, and must **contact Talent Management immediately**.

Common symptoms included, but are not limited to:

- Fever or Chills;
- Cough;
- Shortness of breath or difficulty breathing;
- Fatigue;
- Muscle or body aches;
- Headache;
- New loss of taste or smell;
- Sore throat;
- Congestion or runny nose;
- Nausea or vomiting;
- Diarrhea



## COVID-19: Call-in Hotline for Before Your On-Site Start Date

If you answer "yes" to either of the following questions, you are REQUIRED to reach out to 1-844-322-6799 as part of our ongoing support of the wellbeing of all employees:

- Over the last 14 days, have you **tested positive for infection with COVID-19 and/or were you symptomatic of COVID-19** (fever, dry cough, shortness of breath, chills, muscle pain, sore throat, and/or new loss of taste / smell)?
- Over the last 14 days, have you **been in close contact (within 6 feet) or spent an extended period of time in the presence of a person who tested positive for infection with COVID-19 and/or who was symptomatic of COVID-19** (fever, dry cough, shortness of breath, chills, muscle pain, sore throat, and/or new loss of taste / smell) over the prior 14 days?



Your job will not be subject to termination!

### Follow these steps:

- Call 1-844-322-6799 and leave a voicemail
  - First and last name
  - Orientation Date
- Someone from our Talent team will reach out to reschedule Orientation with you
- *Please note: After leaving the voicemail you may not attend on-site training or shifts until you speak with Talent*



## COVID-19 Test Policy During Employment

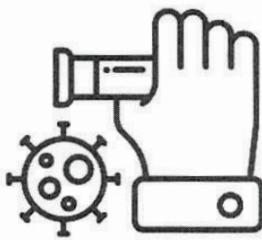
**Any employees that take a COVID-19 test must contact Talent Management as soon as possible and stay home:**

If you have taken a COVID-19 test within the last 14 days for any reason, you are not permitted to report to your location.

Contact Talent Management immediately upon scheduling or taking the test for further instruction.

**This includes:**

- Employees that are asymptomatic
- Employees with no known exposure to someone who is positive
- Employees taking it because of travel or attending a public event or private gathering



Violation of this policy will result in corrective action, up to and including termination of your employment.

# EXHIBIT D

# Keep Well This Winter.

Covid-19 is still a threat to our health. It is essential that all employees do their part to stay safe and keep their families, colleagues and communities safe.

Remember to:

- Wear masks while in and near Wayfair buildings at all times. We also highly recommend wearing masks outside of work
- Maintain adequate social distancing of six (6) feet or more at all times (including during lunch)
- Frequently wash hands and use hand sanitizer
- Do not come to work if you are sick. If you are pending a test result, do not come to work until the test is confirmed negative.



# EXHIBIT E

# Keep Well This Winter.

Covid-19 is still a threat to our health. It is essential that all employees do their part to stay safe and keep their families, colleagues and communities safe.

Remember to:

- Wear masks while in and near Wayfair buildings at all times. We also highly recommend wearing masks outside of work
- Maintain adequate social distancing of six (6) feet or more at all times (including during lunch)
- Frequently wash hands and use hand sanitizer
- Do not come to work if you are sick. If you are pending a test result, do not come to work until the test is confirmed negative

SCAN THE QR CODE FOR MORE TIPS ON STAYING SAFE!



# EXHIBIT F

# STOP!

## DO NOT ENTER THE BUILDING IF YOU ANSWER YES TO ANY OF THE FOLLOWING QUESTIONS:

Are you, or someone you live with, currently waiting for a Diagnostic/Reasonable Suspicion COVID-19 test result?\* (This is a test performed due to symptoms or potential recent exposure to a known positive case).

Over the last 14 days, are/were you symptomatic of COVID-19  
(examples: fever, dry cough, shortness of breath, chills, muscle pain, sore throat, and/or new loss of taste/smell)

Over the last 14 days, have you tested positive for COVID-19?

Over the last 14 days, have you been in close contact (within 6 feet) or spent an extended period of time in the presence of a person who tested positive for infection with COVID-19, is pending a Diagnostic/Reasonable Suspicion test result and/or who was symptomatic of COVID-19 over the prior 14 days?

### IF YOU ANSWER YES TO ANY OF THESE QUESTIONS:

- Do not enter the building
- Employees are required to leave the site and contact your Supervisor, your Operations Manager, or Talent Management.
- Employees may also reach out to your site call out line
- If Talent Management is currently not on-site, employees should **enter a Talent Ticket through Wayfair Assist** by scanning the QR code to the right.

### VISITING THE BUILDING?

If you answered YES—  
do not enter the building. Contact your Wayfair Point of Contact.



### IF YOU ANSWERED NO TO ALL OF THE ABOVE QUESTIONS, BEFORE ENTERING THE BUILDING, REMEMBER TO:

- Wear a mask while in & near a Wayfair building at all times
- Maintain adequate social distancing at all times (6 feet or more)
- Wash & sanitize hands frequently

WE ALL MUST CONTINUE TO DO OUR PART TO KEEP OURSELVES, LOVED ONES, COMMUNITIES, CUSTOMERS & COLLEAGUES SAFE

LEARN MORE, TAKE A FLYER | APRENDE MAS, TOME UN VOLANTE | APRANN PLIS, PRAN YON BWOCHI

D-000525

# EXHIBIT G

----- Forwarded message -----

From: Dj Gaines <[dgaines1@wayfair.com](mailto:dgaines1@wayfair.com)>

Date: Fri, Apr 2, 2021 at 4:35 AM

Subject: Re: COVID-19 results

To: [tmcranbury18@wayfair.com](mailto:tmcranbury18@wayfair.com) <[tmcranbury18@wayfair.com](mailto:tmcranbury18@wayfair.com)>, Nick Segura <[nsegura@wayfair.com](mailto:nsegura@wayfair.com)>

On Friday, April 2, 2021, Dj Gaines <[dgaines1@wayfair.com](mailto:dgaines1@wayfair.com)> wrote:

Unfortunately I have covid I'm so sorry for my boss nick and my team, I hope you can forgive me

--

Madison Irons  
Senior Associate - Talent Management  
Wayfair, LLC  
18 Hightstown Cranbury Station Rd  
Cranbury, NJ 08512  
Email: [mirons@wayfair.com](mailto:mirons@wayfair.com)

Cranbury, NJ 1, 2, & 3

[\*\*CLICK HERE TO OPEN A TALENT TICKET\*\*](#)

# EXHIBIT H



## Termination Report

### INSTRUCTIONS

Use this form to document all involuntary terminations – include all supporting documentation. Complete all sections. Before terminating an employee, Manager must review the decision with their Senior Manager and Talent Management prior to termination.

EMPLOYEE NAME	EMPLOYEE NAME  Dj Gaines	
TERMINATION DATE	EFFECTIVE DATE  4/7/21	
TERMINATION REASON	ENTER APPROPRIATE TERMINATION CODE REFLECTING REASON FOR TERMINATION (CODES CAN BE FOUND IN WORKDAY WHEN YOU PROCESS THE TERMINATION)  Violation of Company Policy- Covid Policy	
LAST DAY WORKED	LAST DAY THE EMPLOYEE PHYSICALLY WORKED  3/30/21	
LAST PERFORMANCE EVALUATION RESULTS	ENTER THE MOST RECENT PERFORMANCE EVALUATION RESULTS RATING GIVEN TO THE EMPLOYEE  Click here to enter text.	
HIRE DATE	ORIGINAL HIRE DATE. (OR MOST RECENT REHIRE DATE IF APPLICABLE)  11/9/20	
DEPARTMENT	ENTER THE EMPLOYEE'S CURRENT DEPARTMENT  QC	
LOCATION	ENTER THE EMPLOYEE'S CURRENT LOCATION  Cranbury 18	
JOB TITLE	ENTER THE EMPLOYEE'S CURRENT JOB TITLE  Warehouse Associate	
SUPERVISOR/MANAGER	ENTER THE EMPLOYEE'S CURRENT SUPERVISOR/MANAGER  Nick Segura	
PERSON(s) CONDUCTING TERMINATION MEETING	ENTER NAME OF PERSON CONDUCTING TERMINATION CONVERSATION WITH EMPLOYEE  Madison Irons	
WITNESSES PRESENT	ENTER NAME(s) OF PERSON(s) WITNESSING TERMINATION CONVERSATION WITH EMPLOYEE  N/A	
COACHING/ DISCIPLINARY ACTION SUMMARY	LIST ANY COUNSELING OR CORRECTIVE ACTION DOCUMENTS ISSUED TO THE EMPLOYEE AND DATES ISSUED. Forward documents to Talent Management.	
	ACTION TAKEN	DATE
	• Click here to enter text.	MM/DD/YYYY .
	• Click here to enter text.	MM/DD/YYYY .
• Click here to enter text.	MM/DD/YYYY .	

• Click here to enter text.

MM/DD/YYYY

<p>DESCRIBE THE FINAL INCIDENT LEADING TO TERMINATION AND THE REASON FOR TERMINATION.</p> <p>BE CONCISE AND SPECIFIC.</p> <p>REFERENCE POLICY/PROCEDURE VIOLATION(S).</p> <p>INCLUDE ANY PERTINENT NOTES OR COMMENTS.</p>	<p><b>DJ started experiencing symptoms of Covid-19 on 3/28 but came to work on 3/28, 3/29 and 3/30, disregarding Wayfair's policy of not coming on site when you are sick or experiencing any symptoms.</b></p>
---	---

SUPERVISOR/MANAGER: \_\_\_\_\_

DATE: \_\_\_\_\_

SENIOR MANAGER/DIRECTOR: \_\_\_\_\_

DATE: \_\_\_\_\_

TALENT MANAGEMENT: \_\_\_\_\_ Madison Irons \_\_\_\_\_

DATE: \_\_\_\_\_ 4/7/21 \_\_\_\_\_

EMPLOYEE: \_\_\_\_\_

DATE: \_\_\_\_\_

# EXHIBIT I

### **Warehouse Associate**

We are Wayfair; we deliver a best-in-class customer experience in the furniture and home space because of people like you, who are driven, determined, collaborative, and thrive in a fast-paced environment. In order to maintain our high level of delivery standards and meet our customer's needs, the Wayfair Dedicated Operations team plays a key role in improving customer satisfaction and driving repeat business. We've been busy building a best-in-class logistics network that allows us to delight customers by speeding up deliveries, adding services, and reducing damage using our own physical, asset-based warehouses. We are looking for talented hard-working individuals to join our growing team – your professional home awaits you at Wayfair!

#### **What You'll Do**

- Unload and receive inbound furniture orders which will require manually moving large, heavy goods.
- Use scan technology to document pertinent carton level information, including condition, quantity, and warehouse location of material.
- Proactively monitor order management systems to ensure that all orders have been received properly and that detailed descriptions are provided for any Overage/Shortage/Damage issues.
- Perform regular cycle counts to ensure inventory is accurate and up to date.
- Pick deliveries from inventory and stage them by truck and stop number.
- Provide direct input into the existing user tools and make recommendations for improvements based on your everyday experience.
- Be a vocal contributor on the team.
- Work effectively with peers and managers.
- Identify the most efficient way to complete assigned tasks and asks clarifying questions when appropriate.
- Perform additional responsibilities as assigned.

#### **What You'll Need**

- Must be comfortable repeatedly lifting up to 75 pounds unassisted and maneuvering product 150+ pounds unassisted or via team lift.
- Must be able to work on warehouse floor 8 hours a day or more.
- Strong, consistent work ethic.
- Comfort with scanning technology.
- Experience in Distribution or Logistics is a plus.
- Experience working in High Jump is a plus.
- Able to read and comprehend English to ensure your safety and the safety of those working around you.

# EXHIBIT J



## SARS-COV-2 RNA, QL, RT PCR (COVID-19)

Results  
**Abnormal**

Status: Final result (Collected: 3/30/2021 1:02 PM)

Hello,

You have a **POSITIVE** Covid-19 Test Result.

If you have a positive test result, it is very likely that you. Therefore, it is also likely that you may be placed in isolation to prevent spreading the virus to others. There is a very small chance that a test result can give a positive result that is wrong (a false positive result). People who test positive for COVID-19 may be eligible to receive monoclonal antibody treatment. Patients who have a PCP or another healthcare provider can ask their provider to screen for and order this treatment if indicated. Without a PCP, people can go to an urgent care center or ER for more information regarding this treatment and to see if it is something you could qualify for, see this [Patient Fact Sheet](#).

Component	Value	Flag	Ref Range	Units	Status
<b>SARS-CoV-2 RNA (COVID-19), QUALITATIVE NAAT</b>	DETECTED !	NOT DETECTED			Final

Comment:

A Detected result is considered a positive test result for COVID-19. This indicates that RNA from SARS-CoV-2 (formerly 2019-nCoV) was detected, and the patient is infected with the virus and presumed to be contagious. If requested by public health authority, specimens will be sent for additional testing.